

SECOND REGULAR SESSION

[CORRECTED]

HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NOS. 1185, 1163, 1174, 1200 & 1225

93RD GENERAL ASSEMBLY

Reported from the Committee on Crime Prevention and Public Safety May 3, 2006 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1185, 1163, 1174, 1200 & 1225 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

5418L.09C

AN ACT

To repeal sections 8.900, 21.475, 21.780, 32.250, 32.260, 42.014, 44.020, 44.024, 44.227, 44.237, 135.550, 162.1060, 166.203, 170.250, 192.510, 192.745, 208.275, 253.375, 260.370, 260.725, 287.717, 306.114, 306.117, 320.094, 384.025, 384.051, 384.062, 577.020, 577.026, 577.037, 577.208, 595.010, 595.015, 595.020, 595.025, 595.027, 595.030, 595.035, 595.036, 595.037, 595.040, 595.045, 595.060, 622.055, and 622.057, RSMo, and to enact in lieu thereof thirty-nine new sections relating to the reorganization of various state agencies, with penalty provisions, an emergency clause for certain sections, and an expiration date for certain sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 8.900, 21.475, 21.780, 32.250, 32.260, 42.014, 44.020, 44.024,
2 44.227, 44.237, 135.550, 162.1060, 166.203, 170.250, 192.510, 192.745, 208.275, 253.375,
3 260.370, 260.725, 287.717, 306.114, 306.117, 320.094, 384.025, 384.051, 384.062, 577.020,
4 577.026, 577.037, 577.208, 595.010, 595.015, 595.020, 595.025, 595.027, 595.030, 595.035,
5 595.036, 595.037, 595.040, 595.045, 595.060, 622.055, and 622.057, RSMo, are repealed and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 thirty-nine new sections enacted in lieu thereof, to be known as sections 8.900, 42.014, 44.020,
7 44.024, 44.227, 44.237, 44.238, 135.550, 162.1060, 166.203, 170.250, 192.510, 192.745,
8 208.275, 260.370, 287.717, 306.114, 306.117, 320.094, 384.025, 384.051, 384.062, 577.020,
9 577.026, 577.037, 577.208, 595.010, 595.015, 595.020, 595.025, 595.027, 595.030, 595.035,
10 595.036, 595.037, 595.040, 595.045, 595.060, and 621.060, to read as follows:

8.900. 1. A permanent memorial for workers who were killed on the job in Missouri or
2 who suffered an on-the-job injury that resulted in a permanent disability shall be established and
3 located on the grounds of the state capitol. [The memorial shall be of a design selected by a
4 competition organized by the "Workers Memorial Committee" which is hereby created. The
5 workers memorial committee shall be composed of the members of the board of public
6 buildings, or their designees, two members of the house of representatives, one from each
7 political party, selected by the speaker of the house, and two members of the senate, one from
8 each political party, selected by the president pro tem of the senate. The members of the
9 committee shall serve without compensation but shall be reimbursed for all actual and necessary
10 expenses incurred in the performance of their official duties for the committee.]

11 2. There is hereby established in the state treasury the "Workers Memorial Fund". Gifts,
12 grants and devises may be deposited in the workers memorial fund. Notwithstanding the
13 provisions of section 33.080, RSMo, moneys in the fund shall not revert to general revenue. The
14 state treasurer shall invest the moneys from the fund in the same manner as other state funds are
15 invested. Interest accruing to the fund shall be deposited in the fund and shall not be transferred
16 to the general revenue fund.

42.014. 1. The Missouri general assembly shall, through appropriations as provided by
2 law, encourage the development of any veterans' programs approved by the executive director
3 of the veterans' commission whereby the historical significance of veteran service can be
4 dedicated to [outreach and] education inside public schools, veteran cemeteries, veteran homes,
5 and other institutions as determined by rule and regulation.

6 2. The [executive director of the veterans' commission] **lieutenant governor** shall
7 administer the provisions of this section and may adopt all rules and regulations necessary to
8 administer the provisions of this section. Any rule or portion of a rule, as that term is defined
9 in section 536.010, RSMo, that is created under the authority delegated in this section shall
10 become effective only if it complies with and is subject to all of the provisions of chapter 536,
11 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
12 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
13 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently
14 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
15 after August 28, 2004, shall be invalid and void.

16 3. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

17 (1) The provisions of the new program authorized under this section shall automatically
18 sunset six years after August 28, 2004, unless reauthorized by an act of the general assembly; and

19 (2) If such program is reauthorized, the program authorized under this section shall
20 automatically sunset twelve years after the effective date of the reauthorization of this section;
21 and

22 (3) This section shall terminate on September first of the calendar year immediately
23 following the calendar year in which the program authorized under this section is sunset.

 44.020. There is hereby created within the [military division of the executive department,
2 office of the adjutant general] **department of public safety**, the "State Emergency Management
3 Agency", for the general purpose of assisting in coordination of national, state and local activities
4 related to emergency functions by coordinating response, recovery, planning and mitigation.
5 This agency shall also serve as the statewide coordinator for activities associated with the
6 National Flood Insurance Program.

 44.024. The [adjutant general, subject to the direction and control of the governor,]
2 **director of the department of public safety** shall be the executive head of the office of the state
3 emergency management agency **and shall appoint a director of the state emergency**
4 **management agency to manage the day-to-day operations of the office.**

 44.227. 1. There is hereby created a "Seismic Safety Commission", which shall be
2 domiciled in the department of public safety.

3 2. The commission shall consist of seventeen members, one who shall be a member of
4 the senate appointed by the president pro tem of the senate, one who shall be a member of the
5 house of representatives appointed by the speaker of the house of representatives, and fifteen
6 members appointed by the governor, with the advice and consent of the senate, one each
7 representing the following professional areas: architecture, planning, fire protection, public
8 utilities, electrical engineering, mechanical engineering, structural engineering, soils engineering,
9 geology, seismology, local government, insurance, business, the American Red Cross and
10 emergency management.

11 3. Commission members shall elect annually from its membership a chairman and vice
12 chairman. A quorum shall consist of nine members. All commission members shall be residents
13 of the state of Missouri and shall have reasonable knowledge of issues relating to earthquakes.

14 4. The term of office for each member of the commission appointed by the governor
15 shall be four years, except that of the initial appointments, seven members shall be appointed for
16 a term of two years and eight members shall be appointed for a term of four years. Any member
17 may be removed from office by the governor without cause. Before the expiration of the term
18 of a member appointed by the governor, the governor shall appoint a successor whose term

19 begins on July first next following. A member is eligible for reappointment. If there is a
20 vacancy for any cause, the governor shall make an appointment to become effective immediately
21 for the unexpired term.

22 5. Each member of the commission shall serve without compensation but shall receive
23 [fifty dollars for each day devoted to the affairs of the commission, plus] actual and necessary
24 expenses incurred in the discharge of his official duties.

25 6. The office of emergency management in the department of public safety shall provide
26 to the commission all technical, clerical and other necessary support services.

44.237. 1. In addition to its responsibilities listed in sections 44.225 to 44.237, the
2 commission shall undertake a study to determine the feasibility of establishing a comprehensive
3 program of earthquake hazard reduction having as its purposes the saving of lives and mitigating
4 damage to property in Missouri.

5 2. The study shall accomplish the following tasks:

6 (1) Earthquake hazard reduction. The study shall develop a comprehensive program for
7 the reduction of earthquake hazards in Missouri. It shall include, but not necessarily be limited
8 to, the following:

9 (a) A review of and recommendations for improving the development and
10 implementation of technically and economically feasible codes, standards and procedures for the
11 design and construction of new structures and the strengthening of existing structures so as to
12 increase the earthquake resistance of structures located in areas of significant seismic hazard;

13 (b) A review of current methods and recommendations for new methods to improve the
14 development, publication and promotion, in conjunction with local officials, research
15 organizations and professional organizations, of model codes and other means to provide better
16 information about seismic hazards to guide land-use policy decisions and building activity;

17 (c) A review of and recommendations for methods, practices and procedures to educate
18 the public, including local officials, about the nature and consequences of earthquakes, about
19 procedures for identifying those locations and structures especially susceptible to earthquake
20 damage and about ways to reduce and mitigate the adverse effects of an earthquake;

21 (d) A review of and recommendations for programs and techniques to improve
22 preparedness for and response to damaging earthquakes with special attention being given to
23 hazard control measures, pre-earthquake emergency planning, readiness of emergency services
24 and planning for post-earthquake reconstruction and redevelopment.

25 (2) Implementation processes. With respect to implementation of earthquake hazard
26 reduction, the study shall include the following:

27 (a) Recommendations for new roles, responsibilities and programs for state and local
28 agencies, universities, private organizations and volunteer organizations, including goals,

29 priorities and expenditures of future state funds specifically identified for the recommended
30 hazards reduction program;

31 (b) Recommendations for methods and procedures to disseminate and implement basic
32 and applied earthquake research in order to achieve higher levels of seismic safety.

33 (3) Coordination with other agencies. To the extent it is practical to do so, the study
34 required by this section shall be coordinated with the relevant local, regional and federal
35 government agencies, key elements of the private sector, and at least the following state agencies:
36 state emergency management agency, division of geology and land survey, division of design and
37 construction, Missouri housing development commission, department of natural resources,
38 department of labor and industrial relations, public service commission, department of health and
39 senior services, office of the state fire marshal, department of transportation, department of
40 revenue, [office of the adjutant general] **department of public safety**, department of insurance,
41 and the department of elementary and secondary education.

42 3. The study shall include recommendations for statutory changes and specific executive
43 actions to be taken by state and local agencies necessary to establish and implement an
44 earthquake hazards reduction program for the state of Missouri.

45 4. The commission shall submit the study to the general assembly by June 30, 1997, or
46 earlier at its discretion.

**44.238. The provisions of sections 44.227 to 44.238 shall expire on December 31,
2 2010.**

135.550. 1. As used in this section, the following terms shall mean:

2 (1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or
3 real property;

4 (2) "Shelter for victims of domestic violence", a facility located in this state which meets
5 the definition of a shelter for victims of domestic violence pursuant to section 455.200, RSMo,
6 and which meets the requirements of section 455.220, RSMo;

7 (3) "State tax liability", in the case of a business taxpayer, any liability incurred by such
8 taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148,
9 RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax
10 as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case
11 of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of
12 chapter 143, RSMo;

13 (4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S
14 corporation doing business in the state of Missouri and subject to the state income tax imposed
15 by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation
16 franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying

17 an annual tax on its gross premium receipts in this state, or other financial institution paying
18 taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions
19 of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in
20 this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax
21 imposed by the provisions of chapter 143, RSMo.

22 2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax
23 liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a shelter
24 for victims of domestic violence.

25 3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's
26 state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be
27 allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any
28 tax credit that cannot be claimed in the taxable year the contribution was made may be carried
29 over to the next four succeeding taxable years until the full credit has been claimed.

30 4. Except for any excess credit which is carried over pursuant to subsection 3 of this
31 section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such
32 taxpayer's contribution or contributions to a shelter or shelters for victims of domestic violence
33 in such taxpayer's taxable year has a value of at least one hundred dollars.

34 5. The director of [public safety] **the department of social services** shall determine, at
35 least annually, which facilities in this state may be classified as shelters for victims of domestic
36 violence. The director of [public safety] **the department of social services** may require of a
37 facility seeking to be classified as a shelter for victims of domestic violence whatever
38 information is reasonably necessary to make such a determination. The director of [public
39 safety] **the department of social services** shall classify a facility as a shelter for victims of
40 domestic violence if such facility meets the definition set forth in subsection 1 of this section.

41 6. The director of [public safety] **the department of social services** shall establish a
42 procedure by which a taxpayer can determine if a facility has been classified as a shelter for
43 victims of domestic violence, and by which such taxpayer can then contribute to such shelter for
44 victims of domestic violence and claim a tax credit. Shelters for victims of domestic violence
45 shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax
46 credits which may be claimed by all the taxpayers contributing to shelters for victims of domestic
47 violence in any one fiscal year shall not exceed two million dollars.

48 7. The director of [public safety] **the department of social services** shall establish a
49 procedure by which, from the beginning of the fiscal year until some point in time later in the
50 fiscal year to be determined by the director of [public safety] **the department of social services**,
51 the cumulative amount of tax credits are equally apportioned among all facilities classified as
52 shelters for victims of domestic violence. If a shelter for victims of domestic violence fails to

53 use all, or some percentage to be determined by the director of [public safety] **the department**
54 **of social services**, of its apportioned tax credits during this predetermined period of time, the
55 director of [public safety] **the department of social services** may reapportion these unused tax
56 credits to those shelters for victims of domestic violence that have used all, or some percentage
57 to be determined by the director of [public safety] **the department of social services**, of their
58 apportioned tax credits during this predetermined period of time. The director of [public safety]
59 **the department of social services** may establish more than one period of time and reapportion
60 more than once during each fiscal year. To the maximum extent possible, the director of [public
61 safety] **the department of social services** shall establish the procedure described in this
62 subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up
63 to the cumulative amount of tax credits available for the fiscal year.

64 8. This section shall become effective January 1, 2000, and shall apply to all tax years
65 after December 31, 1999.

162.1060. 1. There is hereby established a "Metropolitan Schools Achieving Value in
2 Transfer Corporation", which shall be a public body corporate, for the purpose of implementing
3 an urban voluntary school transfer program within a program area which shall include a city not
4 within a county and any school district located in whole or in part in a county with a population
5 in excess of nine hundred thousand persons which district chooses to participate. The
6 corporation shall be governed by a board of directors consisting of one representative from each
7 school district that participates in the urban voluntary school transfer program selected by the
8 governing body of each such district. The vote of each member of the board shall be weighted
9 proportionately to the percentage of the total of transfer students who attend school in the
10 member's district.

11 2. (1) The corporation's board of directors shall design and operate an urban voluntary
12 school transfer program for all participating districts. The board shall make provision for
13 transportation of all the students and for payment to school districts for the education of such
14 students. Acceptance of students into the program shall be determined by policies enacted by
15 the corporation's board of directors, provided that first preference for acceptance of students shall
16 be granted to students currently attending a district other than the district of residence pursuant
17 to a voluntary transfer program established pursuant to federal desegregation order, decree or
18 agreement. All provisions of this section shall be subject to a settlement incorporated into a final
19 judgment, provided that the financial provisions of this section shall not be superseded by such
20 settlement.

21 (2) Each district, other than a metropolitan school district, participating in an urban
22 voluntary school transfer program shall place before voters in the district a proposal to continue
23 participation in the urban voluntary school transfer program at the April election during the sixth

24 year of operation of the program. Unless a majority of district voters voting thereon votes to
25 continue participation in the program, each district, other than a metropolitan school district,
26 shall file a plan, no later than the end of the seventh year of the operation of the program, for
27 phase-out of the district's participation in the program, and such plan shall be provided to the
28 state board of education, the transitional school district and the board of directors of the
29 corporation. Each such plan shall provide for elimination of transfers to the district pursuant to
30 this section no later than the following schedule:

- 31 (a) The ninth year of the program for grades one through three;
- 32 (b) The tenth year of the program for grades four through six;
- 33 (c) The eleventh year of the program for grades seven through nine; and
- 34 (d) The twelfth year of the program for grades ten through twelve.

35 3. (1) Other provisions of law to the contrary notwithstanding, each student participating
36 in the program shall be considered an eligible pupil of the district of residence for the purpose
37 of distributing state aid, except that students attending school in a metropolitan school district
38 in a program established pursuant to this section shall be considered eligible pupils of the district
39 attended, and provided that the department shall determine the increased state aid eligibility
40 created by including pupils attending school in a program established pursuant to this section as
41 eligible pupils of the district of residence and shall distribute the full amount of such state aid
42 to the metropolitan schools achieving value in transfer corporation and shall not distribute state
43 aid on the basis of such pupils to the district of residence.

44 (2) For each student participating in the program, the corporation shall receive the total
45 of all state and federal aid that would otherwise be paid to the student's district of residence,
46 including, but not limited to, state aid provided pursuant to section 148.360, RSMo, section
47 149.015, RSMo, and sections 163.031 and 163.087, RSMo. The corporation shall pay a school
48 district that receives a nonresident student from the funds of the corporation in accordance with
49 the provisions of this section and agreements between the corporation and the participating
50 school districts.

51 4. (1) In each of the first two fiscal years, the corporation shall also receive a payment
52 of twenty-five million dollars.

53 (2) For the third year of operation and thereafter, the corporation shall receive
54 transportation state aid, for each student that participates in the program, which shall be in the
55 same amount and on the same basis as would be received by the student's district of residence
56 if the student were attending a school in the attendance zone in the student's district of residence,
57 provided that such reimbursement shall not exceed one hundred fifty-five percent of the
58 statewide average per pupil cost for transportation for the second preceding school year.

59 (3) Funds received by the corporation pursuant to this subsection may be used for any
60 purpose and need not be expended in the year received.

61 5. The corporation created herein shall have all powers of a public body corporate,
62 except that it shall have no paid employees. The corporation, by contract with any public entity,
63 school district, or private entity, may retain the services of a fiscal agent, make provisions for
64 accounting, transportation management, or other assistance that the corporation may need to
65 carry out its functions, except that no contractor or employee of any contractor acting in a
66 policy-making function shall have ever have been a contractor or employee of the voluntary
67 interdistrict coordinating council or any other program established by the federal district court;
68 except that this restriction shall not apply to transportation contractors or their employees. When
69 a school district located in whole or in part in a county with a population in excess of nine
70 hundred thousand persons ceases to participate in the urban public school transfer program, its
71 representative shall be removed from the corporation's board of directors. When none of the
72 students who reside in a school district in a city not within a county opt to participate in the
73 program, the school district's representative shall be removed from the board of directors. When
74 all of the school districts have ended their participation in the program, in accordance with this
75 subsection, the corporation's operations shall cease, and any funds of the corporation remaining
76 shall be paid to the state of Missouri to the credit of the general revenue fund, except such
77 amounts as the commissioner of education shall determine should be paid to particular school
78 districts under the regulations applicable to federal programs or returned to the federal
79 government.

80 6. All funds received by the corporation shall become funds of the corporation and paid
81 for the purposes set forth in this section and in accordance with agreements entered into between
82 the corporation and participating school districts and other entities, provided that funds received
83 for particular purposes, under federal or state categorical programs benefiting individual
84 students, shall be paid to the district or entity providing services to the students entitled to such
85 services. The proportionate share of federal and state resources generated by students with
86 disabilities, or the staff serving them, shall be paid to the district where the child is attending
87 school, unless the district of residence is required by law to provide such services to the
88 individual students, except that a special school district containing the district where the child
89 is attending school shall be paid for all unreimbursed expenses for special education services
90 provided to students with disabilities. Funds held by the corporation at the close of a fiscal year
91 may be carried over and utilized by the corporation in subsequent fiscal years for the purposes
92 set forth in this section.

93 7. The board of directors may establish regional attendance zones which map the regions
94 of a district in a city not within a county to corresponding recipient districts within the remainder

95 of the program area. In establishing the regional attendance zones, the board of directors may
96 solicit comments and suggestions from residents of the program area and may adopt one or more
97 regional attendance zones previously established in the program area pursuant to a federal court
98 desegregation order, decree or agreement.

99 [8. No later than four years following the date an urban public school transfer program
100 is begun pursuant to this section in a program area, the senate and the house of representatives
101 shall establish a "Joint Committee on Urban Voluntary School Transfer Programs", composed
102 of five members of the senate, appointed by the president pro tem of the senate, and five
103 members of the house of representatives, appointed by the speaker of the house. Not more than
104 three members appointed by the president pro tem and not more than three members appointed
105 by the speaker of the house shall be from the same political party.

106 9. The joint committee may meet as necessary and hold hearings and conduct
107 investigations as it deems advisable. No later than five years following the date an urban
108 voluntary school transfer program is begun pursuant to this section in a program area, the
109 committee shall review and monitor the status of any urban voluntary school transfer program
110 established pursuant to this section and make any recommendations the committee deems
111 necessary to the general assembly regarding such program or programs, which may include
112 proposed changes to the program and recommendations regarding the continuation of the
113 program. The members shall receive no additional compensation, other than reimbursement for
114 their actual and necessary expenses incurred in the performance of their duties. The staff of the
115 committee on legislative research, house research, and senate research shall provide necessary
116 clerical, research, fiscal and legal services to the committee, as the committee may request.

117 10. No later than nine years following the date an urban public school transfer program
118 is begun pursuant to this section in a program area, the joint committee on urban voluntary
119 school transfer programs shall be reestablished in the form specified in subsection 8 of this
120 section and pursuant to the same provisions for reimbursement of expenses and staff support as
121 specified in subsection 9 of this section. No later than ten years following the date an urban
122 voluntary school transfer program is begun pursuant to this section in a program area, the
123 committee shall review and monitor the status of any urban voluntary school transfer program
124 established pursuant to this section and make any recommendations the committee deems
125 necessary to the general assembly regarding such program or programs.]

166.203. 1. There is hereby created the "Missouri Access to Higher Education Trust",
2 which shall be a body corporate and politic. The trust shall be located within the state office of
3 administration, but shall exercise its prescribed powers, duties, and functions independently. The
4 trust shall be governed by a board of directors which shall consist of [ten] **eight** members with
5 knowledge, skill, and experience in the academic, business, or financial field appointed by the

6 governor, by and with the advice and consent of the senate. Not more than three members of the
7 board shall be, during their term of office on the board, either officials, appointees, or employees
8 of this state, except that at least one member shall be appointed from a minority group. Of the
9 remaining [seven] **five** members appointed by the governor, [one shall be appointed from a
10 nominee of the speaker of the house of representatives, one shall be appointed from a nominee
11 of the president pro tem of the senate,] one shall be a president of a public four-year college or
12 university, one shall be a president or chancellor of a public community college, one shall
13 represent the interests of Missouri independent degree-granting colleges and universities, and one
14 shall be the commissioner of higher education. Of these remaining [seven] **five** members, at
15 least one shall be a member of a minority group. Members shall be appointed for a term of three
16 years; except that, of the members first appointed, three shall be appointed for a term of one year,
17 three shall be appointed for a term of two years, and four shall be appointed for a term of three
18 years. A member shall serve until a successor is appointed and qualified, and a vacancy shall be
19 filled for the balance of the unexpired term in the same manner as the original appointment. The
20 governor shall designate one member as chairperson. The governor shall also designate one
21 member as the president and chief executive officer of the trust and one member as the vice
22 president of the trust. Members of the board, other than the president and vice president if they
23 are not otherwise employees of the state, shall receive no compensation, but shall be reimbursed
24 for their actual and necessary expenses incurred in the performance of their duties.

25 2. The board may delegate to its president, vice president, or other member such
26 functions and authority as the board considers necessary or appropriate. These functions may
27 include, but are not limited to, the oversight and supervision of employees of the trust.

28 3. A majority of the members of the board serving shall constitute a quorum for the
29 transaction of business at a meeting of the board, or the exercise of a power or function of the
30 trust, notwithstanding the existence of one or more vacancies. Voting upon action taken by the
31 board shall be conducted by majority vote of the members present at a meeting of the board, and,
32 if authorized by the bylaws of the board and when a quorum is present in person at the meeting,
33 by use of amplified telephonic equipment. The board shall meet at the call of the chair and as
34 may be provided in the bylaws of the trust. Meetings of the board may be held anywhere within
35 the state.

170.250. 1. The "Video Instructional Development and Educational Opportunity
2 Program" is established to encourage all educational institutions in Missouri to supplement
3 educational opportunities through telecommunications technology and satellite broadcast
4 instruction. The program established by this section is to be administered by the state board of
5 education. The program shall consist of:

6 (1) Grants to local school districts, state-supported institutions of higher education and
7 public television stations as defined in section 37.205, RSMo, for equipment and instruction;

8 (2) Instructional programs developed pursuant to this section and transmitted through
9 the airwaves, over telephone lines, or by cable television which are available for all residents of
10 this state without charge as defined in this section; and

11 (3) Instructional programs developed pursuant to this section which are available to any
12 subscriber according to this section.

13 2. The "Video Instructional Development and Educational Opportunity Fund" is
14 established in the state treasury and shall be administered by the department of elementary and
15 secondary education at the direction of the state board of education. Moneys deposited in the
16 fund shall consist of revenues generated from state sales and use tax revenues as provided in
17 chapter 144, RSMo, on the rental of films, records or any type of sound or picture transcriptions
18 as provided in subsection 3 of this section and shall include four million dollars transferred to
19 the fund annually. Moneys in the fund shall be used solely for purposes established by this
20 section.

21 3. Within the department of elementary and secondary education, there is established an
22 advisory committee which shall make recommendations to the state board of education on the
23 grant program. The committee shall be composed of [twenty-nine] **twenty-five** members. The
24 members of the committee shall consist of one representative of public television stations as
25 defined in section 37.205, RSMo, and one representative of the cable television industry
26 appointed by the state board of education, one representative of public television stations as
27 defined in section 37.205, RSMo, and one representative of the cable television industry
28 appointed by the coordinating board for higher education, three classroom teachers from the
29 elementary and secondary level appointed by the state board of education, three school
30 administrators of elementary or secondary schools appointed by the state board of education,
31 three members of school boards of local public school districts appointed by the state board of
32 education, four representatives from public community college districts appointed by the
33 coordinating board for higher education, four representatives of state-supported institutions of
34 higher education other than community colleges appointed by the coordinating board for higher
35 education, one representative of the regional consortium for education and technology appointed
36 by the state board of education, one representative of the cooperating school districts of the St.
37 Louis suburban area appointed by the state board of education, **and** two representatives of the
38 public appointed by the governor with the advice and consent of the senate[, two members of the
39 senate appointed by the senate president pro tem and two members of the house of
40 representatives appointed by the speaker of the house of representatives]. Of all members
41 appointed by the state board of education, no more than four shall be from any one congressional

42 district and of all the members appointed by the coordinating board for higher education, no
43 more than four shall be from any one congressional district. The members of the committee shall
44 serve three-year terms and shall not serve more than two terms consecutively. However,
45 committee members having served two consecutive terms may be reappointed after leaving the
46 committee for at least one three-year term. On August 28, 1992, the committee shall designate
47 nine of its members to serve a term of one year, ten of its members to serve a term of two years,
48 and ten of its members to serve a term of three years. All subsequent appointments shall be for
49 three years. All members shall receive no compensation for their services, but shall be
50 reimbursed for the actual and necessary expenses incurred while serving on the committee out
51 of funds appropriated for that purpose. The committee shall meet at least quarterly and shall
52 annually issue a report together with its recommendations to the state board of education and the
53 general assembly. **The provisions of this subsection shall expire on December 31, 2010.**

54 4. The state board of education may cooperate with existing programs including the
55 University of Missouri, other institutions of higher education, the cooperating school districts
56 of the St. Louis suburban area, or its successor organization, the regional consortium for
57 education and technology or its successor organization, and any statewide organization of public
58 school governing boards and may delegate or contract for the performance or operation of the
59 respective grant programs. The state board of education shall establish appropriate guidelines
60 for participation by the aforementioned entities and by school districts, community college
61 districts, and public television stations as defined in section 37.205, RSMo, in the grant program.
62 Such guidelines shall include application procedures and shall establish policies for awarding
63 grants in the event that more grant applications are received than are funds available to honor the
64 applications in any fiscal year. In allocating funds to applicants, the state board of education may
65 give due consideration to revenues available from all other sources. The state board of education
66 shall accredit courses offered through this program at the elementary and secondary education
67 level. The coordinating board for higher education shall approve courses taught at the
68 postsecondary level.

69 5. In any fiscal year, moneys in the fund shall be used first to ensure that any and all
70 school districts, community college districts and state institutions of higher education seeking
71 aid under this program shall receive telecommunications equipment including computers and
72 modems necessary to participate in the satellite learning process or instructional television video;
73 second to provide the school districts, community college districts and state institutions of higher
74 education with access to subjects at the advanced level or the remedial level or which are not
75 taught in the schools of the district or the service area or campus, which subjects shall include
76 courses in continuing education necessary for maintenance or renewal of licenses for all such
77 licensed health care providers; and third to provide enrichment classes for all pupils of the

78 district. However, the state board of education may set aside a portion of the funds to be used
79 to contract with state-supported institutions of higher education and public television stations as
80 defined in section 37.205, RSMo, to develop instructional programs for grades kindergarten
81 through twelve and for undergraduate and graduate course work suitable for broadcast to the
82 school districts, community college districts and state institutions of higher education as
83 appropriate and to develop the capability to transmit programs cited in this section.

84 6. Participation by a local school district, a community college district or a state
85 institution of higher education in the program established by this section shall be voluntary. No
86 school district, community college district or state institution of higher education receiving funds
87 under this program shall use those funds for any purpose other than that for which they were
88 intended. Any school district, community college district or state institution of higher education
89 shall be eligible to receive funds under this program regardless of its curriculum, local wealth
90 or previous contractual arrangements to receive satellite broadcast instruction.

91 7. The office of administration on behalf of the state of Missouri may contract with
92 institutions of higher education for the development or operation or both of state employee
93 training programs transmitted by telecommunications technology.

94 8. Instructional programs developed pursuant to this section which are transmitted one
95 way through the airwaves or by cable television shall be available to all residents of this state
96 without charge or fee to the extent permitted by the Missouri Constitution. "Without charge or
97 fee" shall not require the providing of equipment to transmit or receive telecommunications
98 instruction or the providing of commercial cable television service. If the instructional program
99 involves two-way, interactive communication between the instructor and the participant, the
100 district or institution operating the program may prescribe academic prerequisites and limit the
101 number of persons who may enroll in the specific program and give preference to residents of
102 the district or institutional attendance area who are age twenty-one or younger but shall not
103 discriminate against any resident on any other basis. A fee may be charged which shall be paid
104 directly by the individual participant, but the fee shall be equal for all participants. If a
105 subscription fee is charged by the originator of the program, the district or institution may pay
106 the subscription fee for all participants from the grant pursuant to this section or from any other
107 public or private fund legally authorized to be used for this purpose. Printed materials designed
108 to facilitate or complement telecommunications programs or electronic reproductions thereof
109 may be made available for loan by the school district, community college or institution of higher
110 education through the public library system subject to the normal rules and regulations of the
111 lending system and in such quantities as may be approved by the governing body of the district
112 or institution. Instructional programs which involve two-way, interactive communication
113 between the instructor and the participant shall also be available to any not-for-profit

114 organization in this state which is exempt from taxation pursuant to subdivision (19) of
115 subsection 2 of section 144.030, RSMo, upon payment of a reasonable subscription fee as
116 determined by the state board of education. Such fees shall be set on a per-participant,
117 per-course basis. The district or institution or the state board of education may make
118 telecommunication equipment available for purchase at cost by or rental to any not-for-profit
119 organization in this state which is exempt from taxation pursuant to subdivision (19) of
120 subsection 2 of section 144.030, RSMo.

121 9. (1) In order to facilitate or complement telecommunications, local exchange
122 telecommunications companies shall file with the public service commission tariffs for provision
123 of local service to public school districts, and may file tariffs for provision of local service to
124 accredited primary or secondary schools owned or operated by private entities and community
125 college districts located within the local exchange telecommunications companies certified area.
126 Such local exchange telecommunications companies shall seek commission authorization to
127 provide local service at rates lower than those charged for business and residential service in
128 effect when the tariff is filed, provided that the proposed rates may not be below the actual cost
129 of providing the service. Upon approval of the public service commission, the rates shall not be
130 classified as discriminatory for the purposes of chapter 392, RSMo.

131 (2) The public service commission may approve the tariff as submitted, or may, after
132 hearing, modify the tariff in the public interest. The commission may promulgate rules to aid
133 in the implementation of this section.

192.510. The department of health and senior services shall respond to all radiation
2 emergencies. The department shall coordinate its radiation emergency response activities and
3 plans with the state emergency management agency, the department of natural resources and
4 other agencies, and provide a memorandum of agreement documenting responsibilities. This
5 section does not in any way alter or change the provisions of chapter 44, RSMo, concerning
6 response during an emergency by the [office of the adjutant general] **department of public**
7 **safety** or its successor agency.

192.745. 1. The "Missouri Head Injury Advisory Council" is hereby established as
2 created by executive order of the governor on March 5, 1985. The council shall consist of
3 [twenty-five] **twenty-one** members. The members of the council that are serving on August 13,
4 1986, shall continue serving on the following basis: the [two members of the council who are
5 members of the house of representatives and appointed by the speaker of the house of
6 representatives shall serve for the remainder of their terms; the two members of the council who
7 are members of the senate appointed by the president pro tempore of the senate shall serve for
8 the remainder of their terms; and the remaining] twenty-one members shall determine by lot
9 which seven are to have a one-year term, which seven are to have a two-year term, and which

10 seven are to have a three-year term. Thereafter, the successors to each of these twenty-one
11 members shall serve a three-year term and until the member's successor is appointed by the
12 governor with the advice and consent of the senate. [In addition, two members who are members
13 of the house of representatives shall be appointed by the speaker of the house and two members
14 who are members of the senate shall be appointed by the president pro tempore of the senate.]
15 The members appointed by the governor shall represent people with head injuries, relatives of
16 persons with head injuries, proprietary schools as defined in section 173.600, RSMo,
17 professional groups, health institutions, or private industry and state agencies which administer
18 programs regarding mental health, education, public health, public safety, insurance, and
19 Medicaid. The appointment of individuals representing state agencies shall be conditioned on
20 their continued employment with their respective agencies.

21 2. The Missouri head injury advisory council is assigned to the division of general
22 services in the office of administration. The office of administration shall submit estimates of
23 requirements for appropriations on behalf of the council for the necessary staff and expenses to
24 carry out the duties and responsibilities assigned by the council. Such staff shall consist of a
25 director and other support staff.

26 3. Meetings shall be held at least every ninety days or at the call of the council
27 chairperson, who shall be elected by the council.

28 4. Each member shall, subject to appropriations, be reimbursed for reasonable and
29 necessary expenses actually incurred in the performance of the member's official duties.

30 5. The council shall adopt written procedures to govern its activities. Staff and
31 consultants shall be provided for the council from appropriations requested by the commissioner
32 of the office of administration for such purpose.

33 6. The council shall make recommendations to the governor for developing and
34 administering a state plan to provide services for head injured persons.

35 7. No member of the council may participate in or seek to influence a decision or vote
36 of the council if the member would be directly involved with the matter or if the member would
37 derive income from it. A violation of the prohibition contained herein shall be grounds for a
38 person to be removed as a member of the council by the governor.

39 8. The council shall be advisory and shall:

40 (1) Promote meetings and programs for the discussion of reducing the debilitating effects
41 of head injuries and disseminate information in cooperation with any other department, agency
42 or entity on the prevention, evaluation, care, treatment and rehabilitation of persons affected by
43 head injuries;

44 (2) Study and review current prevention, evaluation, care, treatment and rehabilitation
45 technologies and recommend appropriate preparation, training, retraining and distribution of

46 manpower and resources in the provision of services to head-injured persons through private and
47 public residential facilities, day programs and other specialized services;

48 (3) Recommend what specific methods, means and procedures should be adopted to
49 improve and upgrade the state's service delivery system for head-injured citizens of this state;

50 (4) Participate in developing and disseminating criteria and standards which may be
51 required for future funding or licensing of facilities, day programs and other specialized services
52 for head-injured persons in this state;

53 (5) Report annually to the commissioner of administration, the governor, and the general
54 assembly on its activities, and on the results of its studies and the recommendations of the
55 council.

56 9. The office of administration may accept on behalf of the council federal funds, gifts
57 and donations from individuals, private organizations and foundations, and any other funds that
58 may become available.

59 **10. The provisions of this section shall expire on December 31, 2010.**

208.275. 1. As used in this section, unless the context otherwise indicates, the following
2 terms mean:

3 (1) "Elderly", any person who is sixty years of age or older;

4 (2) "Handicapped", any person having a physical or mental condition, either permanent
5 or temporary, which would substantially impair ability to operate or utilize available
6 transportation.

7 2. There is hereby created the "Coordinating Council on Special Transportation" within
8 the Missouri department of transportation. The members of the council shall be: [two members
9 of the senate appointed by the president pro tem, who shall be from different political parties;
10 two members of the house of representatives appointed by the speaker, who shall be from
11 different political parties;] the assistant for transportation of the Missouri department of
12 transportation, or his designee; the assistant commissioner of the department of elementary and
13 secondary education, responsible for special transportation, or his designee; the director of the
14 division of aging of the department of social services, or his designee; the deputy director for
15 mental retardation/developmental disabilities and the deputy director for administration of the
16 department of mental health, or their designees; the executive secretary of the governor's
17 committee on the employment of the handicapped; and seven consumer representatives
18 appointed by the governor by and with the advice and consent of the senate, four of the consumer
19 representatives shall represent the elderly and three shall represent the handicapped. Two of such
20 three members representing handicapped persons shall represent those with physical handicaps.
21 Consumer representatives appointed by the governor shall serve for terms of three years or until
22 a successor is appointed and qualified. Of the members first selected, two shall be selected for

23 a term of three years, two shall be selected for a term of two years, and three shall be selected for
24 a term of one year. In the event of the death or resignation of any member, his successor shall
25 be appointed to serve for the unexpired period of the term for which such member had been
26 appointed.

27 3. State agency personnel shall serve on the council without additional appropriations
28 or compensation. The consumer representatives shall serve without compensation except for
29 receiving reimbursement for the reasonable and necessary expenses incurred in the performance
30 of their duties on the council from funds appropriated to the department of transportation.
31 [Legislative members shall be reimbursed by their respective appointing bodies out of the
32 contingency fund for such body for necessary expenses incurred in the performance of their
33 duties.]

34 4. Staff for the council shall be provided by the Missouri department of transportation.
35 The department shall designate a special transportation coordinator who shall have had
36 experience in the area of special transportation, as well as such other staff as needed to enable
37 the council to perform its duties.

38 5. The council shall meet at least quarterly each year and shall elect from its members
39 a chairman and a vice chairman.

40 6. The coordinating council on special transportation shall:

41 (1) Recommend and periodically review policies for the coordinated planning and
42 delivery of special transportation when appropriate;

43 (2) Identify special transportation needs and recommend agency funding allocations and
44 resources to meet these needs when appropriate;

45 (3) Identify legal and administrative barriers to effective service delivery;

46 (4) Review agency methods for distributing funds within the state and make
47 recommendations when appropriate;

48 (5) Review agency funding criteria and make recommendations when appropriate;

49 (6) Review area transportation plans and make recommendations for plan format and
50 content;

51 (7) Establish measurable objectives for the delivery of transportation services;

52 (8) Review annual performance data and make recommendations for improved service
53 delivery, operating procedures or funding when appropriate;

54 (9) Review local disputes and conflicts on special transportation and recommend
55 solutions.

56 **7. The provisions of this section shall expire on December 31, 2010.**

260.370. 1. Where proven technology is available and the economic impact is
2 reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous

3 waste management commission shall encourage that every effort is made to effectively treat,
4 recycle, detoxify, incinerate or otherwise treat hazardous waste to be disposed of in the state of
5 Missouri in order that such wastes are not disposed of in a manner which is hazardous to the
6 public health and the environment. Where proven technology is available with respect to a
7 specific hazardous waste and the economic impact is reasonable, pursuant to rules and
8 regulations promulgated by the commission, the hazardous waste management commission shall
9 direct that disposal of the specific hazardous wastes using land filling as the primary method is
10 prohibited.

11 2. The hazardous waste management commission shall, by rules and regulations,
12 categorize hazardous waste by taking into account toxicity, persistence and degradability in
13 nature, potential for accumulation in tissue, and other related factors such as flammability,
14 corrosiveness and other hazardous characteristics. The commission shall by rules and
15 regulations further establish within each category the wastes which may or may not be disposed
16 of through alternative hazardous waste management technologies including, but not limited to,
17 treatment facilities, incinerators, landfills, landfarms, storage facilities, surface impoundments,
18 recycling, reuse and reduction. The commission shall specify, by rule and regulation, the
19 frequency of inspection for each method of hazardous waste management and for the different
20 waste categories at hazardous waste management sites. The inspection may be daily when the
21 hazardous waste management commission deems it necessary. The hazardous waste
22 management commission shall specify, by rule, fees to be paid to the department by owners or
23 operators of hazardous waste facilities who have obtained, or are required to obtain, a hazardous
24 waste facility permit and who accept, on a commercial basis for remuneration, hazardous waste
25 from off-site sources, but not including wastes generated by the same person at other sites
26 located in Missouri or within a metropolitan statistical area located partially in Missouri and
27 owned or operated by the same person and transferred to the hazardous waste facility, for
28 treatment, storage or disposal, for inspections conducted by the department to determine
29 compliance with sections 260.350 to 260.430 and the regulations promulgated thereunder. Funds
30 derived from these inspection fees shall be used for the purpose of funding the inspection of
31 hazardous waste facilities, as specified in subsection 3 of section 260.391. Such fees shall not
32 exceed twelve thousand dollars per year per facility and the commission shall establish a
33 graduated fee scale based on the volume of hazardous waste accepted with reduced fees for
34 facilities accepting smaller volumes of hazardous waste. The department shall furnish, upon
35 request, to the person, firm or corporation operating the hazardous waste facility a complete, full
36 and detailed accounting of the cost of the department's inspections of the facility for the
37 twelve-month period immediately preceding the request within forty-five days after receipt of

38 the request. Failure to provide the accounting within forty-five days shall require the department
39 to refund the inspection fee paid during the twelve-month-time period.

40 3. In addition to any other powers vested in it by law, the commission shall have the
41 following powers:

42 (1) From time to time adopt, amend or repeal, after due notice and public hearing,
43 standards, rules and regulations to implement, enforce and carry out the provisions of sections
44 260.350 to 260.430 and any required of this state by any federal hazardous waste management
45 act and as the commission may deem necessary to provide for the safe management of hazardous
46 wastes to protect the health of humans and the environment. In implementing this subsection,
47 the commission shall consider the variations within this state in climate, geology, population
48 density, quantities and types of hazardous wastes generated, availability of hazardous waste
49 facilities and such other factors as may be relevant to the safe management of hazardous wastes.
50 Within two years after September 28, 1977, the commission shall adopt rules and regulations
51 including the following:

52 (a) Rules and regulations establishing criteria and a listing for the determination of
53 whether any waste or combination of wastes is hazardous for the purposes of sections 260.350
54 to 260.430, taking into account toxicity, persistence and degradability in nature, potential for
55 accumulation in tissue, and other related factors such as flammability, corrosiveness and other
56 hazardous characteristics;

57 (b) Rules and regulations for the storage, treatment and disposal of hazardous wastes;

58 (c) Rules and regulations for the transportation, containerization and labeling of
59 hazardous wastes, which shall be consistent with those issued by the Missouri public service
60 commission;

61 (d) Rules and regulations establishing standards for the issuance, modification,
62 suspension, revocation or denial of such licenses and permits as are consistent with the purposes
63 of sections 260.350 to 260.430;

64 (e) Rules and regulations establishing standards and procedures for the safe operation
65 and maintenance of hazardous waste facilities in order to protect the health of humans and other
66 living organisms;

67 (f) Rules and regulations listing those wastes or combinations of wastes, for which
68 criteria have been established under paragraph (a) of this subdivision and which are not
69 compatible and which may not be stored or disposed of together;

70 (g) Rules and regulations establishing procedures and requirements for the reporting of
71 the generation, storage, transportation, treatment or disposal of hazardous wastes;

72 (2) Adopt and publish, after notice as required by the provisions of chapter 536, RSMo,
73 pertaining to administrative rulemaking, and public hearing, a state hazardous waste management

74 plan to provide for the safe and effective management of hazardous wastes within this state. This
75 plan shall be adopted within two years after September 28, 1977, and revised at least once every
76 five years thereafter;

77 (3) Hold hearings, issue notices of hearings and subpoenas requiring the attendance of
78 witnesses and the production of evidence, administer oaths and take testimony as the commission
79 deems necessary to accomplish the purposes of sections 260.350 to 260.430 or as required by
80 any federal hazardous waste management act. Unless otherwise specified in sections 260.350
81 to 260.430, any of these powers may be exercised on behalf of the commission by any members
82 thereof or a hearing officer designated by it;

83 (4) Grant individual variances in accordance with the provisions of sections 260.350 to
84 260.430;

85 (5) Make such orders as are necessary to implement, enforce and effectuate the powers,
86 duties and purposes of sections 260.350 to 260.430.

87 4. No rule or portion of a rule promulgated under the authority of sections 260.350 to
88 260.480 and sections 260.565 to 260.575 shall become effective unless it has been promulgated
89 pursuant to the provisions of section 536.024, RSMo.

90 5. To the extent there is a conflict concerning authority for risk- based remediation rules
91 between this section and section 644.143, RSMo, or subdivision (8) of section 644.026, RSMo,
92 this section shall prevail.

93 [6. Beginning July 1, 2004, a joint committee appointed by the speaker of the house of
94 representatives and the president pro tem of the senate shall consider proposals for restructuring
95 the fees paid by hazardous waste generators and hazardous waste facilities. The committee shall
96 consider options for expanding the fee structure to more fairly apportion the cost of services
97 provided among all those that benefit from those services. The committee shall prepare and
98 submit a report including its recommendation for changes to the governor, the house of
99 representatives, and the senate no later than December 31, 2004.]

287.717. 1. Beginning January 1, 2004, the administrative surcharge established
2 pursuant to section 287.716 shall be collected from deductible plan policyholders by each insurer
3 at the same time and in the same manner that the premium is collected, but no insurer or its agent
4 shall be entitled to any portion of the administrative surcharge as a fee or commission for its
5 collection. The administrative surcharge is not subject to any taxes, licenses, or fees.

6 2. All administrative surcharges imposed pursuant to section 287.716 shall be paid to
7 the Missouri director of revenue and shall be deposited to the workers' compensation
8 administrative fund.

9 3. [The amount of the administrative surcharge due for the current calendar year shall
10 be paid in four approximately equal estimated quarterly installments, and a fifth reconciling

11 installment. The first four installments shall be based upon the amount of administrative
12 surcharge payable in the calendar year for which the surcharge is imposed. The quarterly
13 installments shall be made on the first day of March, the first day of June, the first day of
14 September, and the first day of December. On or before the first day of March of each year,
15 every such insurer shall submit a report, verified by the affidavit of its president and secretary
16 or other chief officers or agents, to the director of the department of insurance, stating the amount
17 of all such total premiums which would have been paid for the deductible portion.

18 4. If after the end of any calendar year, the amount of the actual administrative surcharge
19 due is less than the total amount of the installments actually paid, the amount by which the
20 amount paid exceeds the amount due shall only be credited against the administrative surcharge
21 for the following year and deducted from the quarterly installment due on June first and any other
22 payments required by this section until the credit is exhausted. In the event no such payments
23 are due and upon application of the insurer, the director of revenue may refund the amount of
24 credit if no other obligation is owed to the state.

25 **5.] Such surcharge amounts shall be paid quarterly by insurers. Insurers shall pay**
26 **the amounts not later than the thirtieth day of the month following the end of the quarter**
27 **in which the amount is received from policyholders. The administrative surcharge**
28 **amounts shall be deemed paid to the state if they are postmarked by the United States post**
29 **office or received by the thirtieth day of the month following the end of the quarter in**
30 **which the amount is owed. If the director of the division of workers' compensation fails**
31 **to calculate the surcharge by the thirty-first day of October of any year for the following**
32 **year, any increase in the surcharge ultimately set by the director shall not be effective for**
33 **any calendar quarter beginning less than sixty days from the date the director makes such**
34 **determination.**

35 4. If a deductible plan policyholder fails to make payment of the administrative
36 surcharge, or an insurer fails to make timely transfer to the director of revenue of administrative
37 surcharges actually collected from deductible plan policyholders, as required by this section, a
38 late charge of one-half of one percent of the administrative surcharge unpaid, or transferred, shall
39 be assessed against the liable deductible plan policyholder or insurer. Late charges assessed
40 pursuant to this subsection shall be collected in a civil action by a summary proceeding brought
41 by the director of the division of workers' compensation.

42 [6.] 5. If the administrative surcharges imposed by this section are not paid when due,
43 the deductible plan policyholder or insurer shall be required to pay, as part of such administrative
44 surcharge, interest thereon at the rate of one and one-half percent per month for each month or
45 fraction thereof delinquent. In the event the state prevails in any dispute concerning an
46 assessment of the administrative surcharge, which has not been paid by the policyholder or

47 insurer, interest shall be paid upon the amount found due to the state at the rate of one and
48 one-half percent per month for each month or fraction thereof delinquent.

49 **6. On or before the first day of March of each year such insurer shall submit a**
50 **report, verified by the affidavit of its president and secretary or other chief officers or**
51 **agents, to the director of the division of workers' compensation, stating the amount of all**
52 **such total premiums that would have been paid for the deductible policies during the prior**
53 **calendar year.**

54 7. The division may authorize electronic transfer of all forms, reports, payments, and
55 other information deemed appropriate by the division as required pursuant to this section and
56 sections 287.690, 287.710, 287.715, and 287.716. Information filed pursuant to this section and
57 sections 287.690, 287.710, 287.715, and 287.716 and under any rules promulgated by the
58 division pursuant to this section and sections 287.690, 287.710, 287.715, and 287.716 shall be
59 confidential and not subject to chapter 610, RSMo.

60 8. This section shall not apply to any employer or group of employers authorized by the
61 division to self-insure their liability pursuant to this chapter.

306.114. 1. No person convicted of or pleading guilty to a violation of section 306.111
2 or 306.112 shall be granted a suspended imposition of sentence, unless such person is placed on
3 probation for a minimum of two years and a record of the conviction or plea of guilty is entered
4 into the records of the Missouri uniform law enforcement system maintained by the Missouri
5 state highway patrol.

6 2. Chemical tests of a person's blood, breath, urine, or saliva to be considered valid under
7 the provisions of sections 306.111 to 306.119 shall be performed according to methods and
8 devices approved by the [department of health and senior services] **highways and**
9 **transportation commission** by licensed medical personnel or by a person possessing a valid
10 permit issued by the [department of health and senior services] **highways and transportation**
11 **commission** for this purpose. In addition, any state, county, or municipal law enforcement
12 officer who is certified pursuant to chapter 590, RSMo, may, prior to arrest, administer a portable
13 chemical test to any person suspected of operating any vessel in violation of section 306.111 or
14 306.112. A portable chemical test shall be admissible as evidence of probable cause to arrest and
15 as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The
16 provisions of section 306.116 shall not apply to a test administered prior to arrest pursuant to this
17 section.

18 3. The [department of health and senior services] **highways and transportation**
19 **commission** shall approve satisfactory techniques, devices, equipment, or methods to conduct
20 tests required by sections 306.111 to 306.119, and shall establish standards as to the
21 qualifications and competence of individuals to conduct analyses and to issue permits which

22 shall be subject to termination, suspension or revocation by the [department of health and senior
23 services] **highways and transportation commission.**

24 4. A licensed physician, registered nurse, or trained medical technician, acting at the
25 request and direction of a law enforcement officer, shall withdraw blood for the purpose of
26 determining the alcohol content of the blood, unless the medical personnel, in the exercise of
27 good faith medical judgment, believes such procedure would endanger the life or health of the
28 person in custody. Blood may be withdrawn only by such medical personnel, but such restriction
29 shall not apply to the taking of a breath test or a urine or saliva specimen. In withdrawing blood
30 for the purpose of determining the alcohol content in the blood, only a previously unused and
31 sterile needle and sterile vessel shall be used and the withdrawal shall otherwise be in strict
32 accord with accepted medical practices. A nonalcoholic antiseptic shall be used for cleansing
33 the skin prior to a venapuncture. Upon the request of the person who is tested, full information
34 concerning the test taken at the direction of the law enforcement officer shall be made available
35 to such person.

36 5. No person who administers any test pursuant to the provisions of sections 306.111 to
37 306.119 upon the request of a law enforcement officer, no hospital in or with which such person
38 is employed or is otherwise associated or in which such test is administered, and no other person,
39 firm, or corporation by whom or with which such person is employed or is in any way associated
40 shall be civilly liable for damages to the person tested, except for negligence in administering
41 of the test or for willful and wanton acts or omissions.

42 6. Any person who is dead, unconscious or who is otherwise in a condition rendering
43 such person incapable of refusing to take a test as provided in sections 306.111 to 306.119 shall
44 be deemed not to have withdrawn the consent provided by section 306.116 and the test or tests
45 may be administered.

306.117. 1. Upon the trial of any person for violation of any of the provisions of section
2 306.111 or 306.112 the amount of alcohol or drugs in the person's blood at the time of the act
3 alleged as shown by any chemical analysis of the person's blood, breath, urine, or saliva is
4 admissible in evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not
5 prevent the admissibility or introduction of such evidence if otherwise admissible. Evidence of
6 alcohol in a person's blood shall be given the following effect:

7 (1) If there was five-hundredths of one percent or less by weight of alcohol in such
8 person's blood, it shall be presumed that the person was not intoxicated at the time the specimen
9 was obtained;

10 (2) If there was in excess of five-hundredths of one percent but less than ten-hundredths
11 of one percent by weight of alcohol in such person's blood, the fact shall not give rise to any

12 presumption that the person was or was not intoxicated, but the fact may be considered with
13 other competent evidence in determining whether the person was intoxicated;

14 (3) If there was ten-hundredths of one percent or more by weight of alcohol in the
15 person's blood, this shall be prima facie evidence that the person was intoxicated at the time the
16 specimen was taken.

17 2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per
18 one hundred milliliters of blood.

19 3. A chemical analysis of a person's breath, blood, urine, or saliva, in order to give rise
20 to the presumption or to have the effect provided for in subsection 1 of this section, shall have
21 been performed as provided in sections 306.111 to 306.119 and in accordance with methods and
22 standards approved by the [department of health and senior services] **highways and**
23 **transportation commission.**

24 4. The provisions of this section shall not be construed as limiting the introduction of
25 any other competent evidence bearing upon the question whether the person was intoxicated or
26 under the influence of a controlled substance, or drug, or a combination of either or both with
27 or without alcohol.

320.094. 1. The state treasurer shall annually transfer an amount prescribed in
2 subsection 2 of this section out of the state revenues derived from premium taxes levied on
3 insurance companies pursuant to sections 148.310 to 148.461, RSMo, which are deposited by
4 the director of revenue in the general revenue fund pursuant to section 148.330, RSMo, in a fund
5 hereby created in the state treasury, to be known as the "Fire Education Fund". Any interest
6 earned from investment of moneys in the fund, and all moneys received from gifts, grants, or
7 other moneys appropriated by the general assembly, shall be credited to the fund. The state
8 treasurer shall administer the fund, and the moneys in such fund shall be used solely as
9 prescribed in this section. Notwithstanding the provisions of section 33.080, RSMo, to the
10 contrary, moneys in the fire education fund at the end of any biennium shall not be transferred
11 to the credit of the general revenue fund.

12 2. Beginning July 1, 1998, three percent of the amount of premium taxes collected in the
13 immediately preceding fiscal year pursuant to sections 148.310 to 148.461, RSMo, which are
14 deposited in the general revenue fund that exceeds the amount of premium taxes which were
15 deposited in the general revenue fund in the 1997 fiscal year shall be transferred from the general
16 revenue fund to the credit of the fire education fund. At the end of each fiscal year, the
17 commissioner of administration shall determine the amount transferred to the credit of the fire
18 education fund in each fiscal year by computing the premium taxes deposited in the general
19 revenue fund in the prior fiscal year and comparing such amount to the amount of premium taxes
20 deposited in the general revenue fund in the 1997 fiscal year. An amount equal to three percent

21 of the increase computed pursuant to this section shall be transferred by the state treasurer to the
22 credit of the fire education fund; however, such transfer in any fiscal year shall not exceed one
23 million five hundred thousand dollars.

24 3. There is hereby established a special trust fund, to be known as the "Missouri Fire
25 Education Trust Fund", which shall consist of all moneys collected per subsection 2 of this
26 section transferred to the fund from the fire education fund pursuant to this subsection, any
27 earnings resulting from the investment of moneys in the fund, and all moneys received from
28 gifts, grants, or other moneys appropriated by the general assembly. Each fiscal year, an amount
29 equal to forty percent of the moneys transferred to the fire education fund collected pursuant to
30 subsection 2 of this section shall be transferred by the state treasurer to the credit of the Missouri
31 fire education trust fund. The fund shall be administered by a board of trustees, consisting of the
32 state treasurer[, two members of the senate appointed by the president pro tem of the senate, two
33 members of the house of representatives appointed by the speaker of the house,] and two
34 members appointed by the governor with the advice and consent of the senate. [Any member
35 appointed due to such person's membership in the senate or house of representatives shall serve
36 only as long as such person holds the office referenced in this section.] The state treasurer shall
37 invest moneys in the fund in a manner as provided by law. Subject to appropriations, moneys
38 in the fund shall be used solely for the purposes described in this section, but such appropriations
39 shall be made only if the board recommends to the general assembly that such moneys are
40 needed in that fiscal year to adequately fund the activities described in this section. Moneys shall
41 accumulate in the trust fund until the earnings from investment of moneys in the fund can
42 adequately support the activities described in this section, as determined by the board. At such
43 time, the board may recommend that the general assembly adjust or eliminate the funding
44 mechanism described in this section. Notwithstanding the provisions of section 33.080, RSMo,
45 to the contrary, moneys in the Missouri fire education trust fund at the end of any biennium shall
46 not be transferred to the credit of the general revenue fund.

47 4. The moneys in the fire education fund, after any distribution pursuant to subsection
48 3 of this section, shall be appropriated to the division of fire safety to coordinate education needs
49 in cooperation with community colleges, colleges, regional training facilities, fire and emergency
50 services training entities and universities of this state and shall provide training and continuing
51 education to firefighters in this state relating to fire department operations and the personal safety
52 of firefighters while performing fire department activities. Programs and activities funded under
53 this subsection must be approved by the Missouri fire education commission established in
54 subsection 5 of this section. These funds shall primarily be used to provide field education
55 throughout the state, with not more than two percent of funds under this subsection expended
56 on administrative costs.

57 5. There is established the "Missouri Fire Education Commission", to be domiciled in
58 the division of fire safety within the department of public safety. The commission shall be
59 composed of five members appointed by the governor with the advice and consent of the senate,
60 consisting of one firefighter serving as a volunteer of a volunteer fire protection association, one
61 full-time firefighter employed by a recognized fire department or fire protection district, one
62 firefighter training officer, one person serving as the chief of a volunteer fire protection
63 association, and one chief fire officer from a recognized fire department or fire protection
64 district. No more than three members appointed by the governor shall be of the same political
65 party. The terms of office for the members appointed by the governor shall be four years and
66 until their successors are selected and qualified, except that, of those first appointed, two shall
67 have a term of four years, two shall have a term of three years and one shall have a term of two
68 years. There is no limitation on the number of terms an appointed member may serve. The
69 governor may appoint a member for the remaining portion of the unexpired term created by a
70 vacancy. The governor may remove any appointed member for cause. The members shall at
71 their initial meeting select a chair. All members of the commission shall serve without
72 compensation for their duties, but shall be reimbursed for necessary travel and other expenses
73 incurred in the performance of their official duties. The commission shall meet at least quarterly
74 at the call of the chair and shall review and determine appropriate programs and activities for
75 which funds may be expended under subsection 4 of this section.

384.025. 1. If at any time the director has reason to believe that an eligible surplus lines
2 insurer:

- 3 (1) Is in unsound financial condition;
- 4 (2) Is no longer eligible under section 384.021;
- 5 (3) Has willfully violated the laws of this state; or
- 6 (4) Does not make reasonably prompt payment of just losses and claims in this state or
7 elsewhere;
- 8 the director may declare it ineligible.

9 2. The director shall promptly [mail] **publish** notice of all such declarations [to each
10 surplus lines licensee] **on the department's website.**

384.051. 1. Every insured in this state who procures or causes to be procured or
2 continues or renews insurance in any surplus lines insurer, or any self-insurer in this state who
3 so procures or continues with, any surplus lines insurer, excess of loss, catastrophe or other
4 insurance, upon a subject of insurance resident, located or to be performed within this state, other
5 than insurance procured through a surplus lines broker pursuant to sections 384.011 to 384.071,
6 shall before March second of the year next succeeding the year in which the insurance was so

7 procured, continued or renewed, file a written report of the same with the director on forms
8 prescribed by the director and furnished to such an insured upon request. The report shall show:

- 9 (1) The name and address of the insured or insureds;
- 10 (2) The name and address of the insurer or insurers;
- 11 (3) The subject of the insurance;
- 12 (4) A general description of the coverage;
- 13 (5) The amount of premium currently charged therefor;
- 14 (6) Such additional pertinent information as may be reasonably requested by the director.

15 2. If any such insurance covers also a subject of insurance resident, located or to be
16 performed outside this state, for the purposes of this section, a proper pro rata portion of the
17 entire premium payable for all such insurance shall be allocated as to the subjects of insurance
18 resident, located or to be performed in this state.

19 3. Any insurance in a surplus lines insurer procured through negotiations or an
20 application in whole or in part occurring or made within or from within this state, or for which
21 premiums in whole or in part are remitted directly or indirectly from within this state, shall be
22 deemed to be insurance procured or continued or renewed in this state within the intent of
23 subsection 1 of this section.

24 4. For the general support of the government of this state there is levied upon the insured
25 **or self-insurer** who procures insurance pursuant to subsections 1 and 3 of this section a tax at
26 the rate of five percent of the net amount of the premium in respect of risks located in this state.
27 Before April sixteenth of the year next succeeding the year in which the insurance was so
28 procured, continued or renewed, the insured shall remit to the [director] **department of revenue**
29 the amount of the tax. [The director before June first of each year shall certify and transmit to
30 the director of revenue the sums so collected.] **The department of revenue shall notify the**
31 **director of sums collected from each insured or self-insurer.**

384.062. 1. If [the] **any tax [collectible] , penalty, or interest payable** by a surplus
2 lines licensee under the provisions of sections 384.011 to 384.071 [has been collected and] is not
3 paid within the time prescribed, the same shall be recoverable in a suit brought by the director
4 against the surplus lines licensee.

5 2. All taxes, penalties, and interest or delinquent taxes levied pursuant to this chapter
6 shall be paid to the [director] **department of revenue**, who shall [obtain such taxes, penalties
7 and interest by civil action against the insured or the surplus lines licensee, and the director shall
8 remit such taxes when collected to the director of revenue] **notify the director of the sums**
9 **collected from each surplus lines licensee.** All checks and drafts remitted for the payment of
10 such taxes, penalties and interest shall be made payable to the director of revenue.

11 3. Taxes collected pursuant to this chapter are taxes collected by the director of revenue
12 within the meaning of section 139.031, RSMo.

 577.020. 1. Any person who operates a motor vehicle upon the public highways of this
2 state shall be deemed to have given consent to, subject to the provisions of sections 577.020 to
3 577.041, a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of
4 determining the alcohol or drug content of the person's blood pursuant to the following
5 circumstances:

6 (1) If the person is arrested for any offense arising out of acts which the arresting officer
7 had reasonable grounds to believe were committed while the person was driving a motor vehicle
8 while in an intoxicated or drugged condition; or

9 (2) If the person is under the age of twenty-one, has been stopped by a law enforcement
10 officer, and the law enforcement officer has reasonable grounds to believe that such person was
11 driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more
12 by weight; or

13 (3) If the person is under the age of twenty-one, has been stopped by a law enforcement
14 officer, and the law enforcement officer has reasonable grounds to believe that such person has
15 committed a violation of the traffic laws of the state, or any political subdivision of the state, and
16 such officer has reasonable grounds to believe, after making such stop, that such person has a
17 blood alcohol content of two-hundredths of one percent or greater;

18 (4) If the person is under the age of twenty-one, has been stopped at a sobriety
19 checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that
20 such person has a blood alcohol content of two-hundredths of one percent or greater;

21 (5) If the person, while operating a motor vehicle, has been involved in a motor vehicle
22 collision which resulted in a fatality or a readily apparent serious physical injury as defined in
23 section 565.002, RSMo, and has been arrested as evidenced by the issuance of a uniform traffic
24 ticket for the violation of any state law or county or municipal ordinance with the exception of
25 equipment violations contained in chapter 306, RSMo, or similar provisions contained in county
26 or municipal ordinances; or

27 (6) If the person, while operating a motor vehicle, has been involved in a motor vehicle
28 collision which resulted in a fatality.

29

30 The test shall be administered at the direction of the law enforcement officer whenever the
31 person has been arrested or stopped for any reason.

32 2. The implied consent to submit to the chemical tests listed in subsection 1 of this
33 section shall be limited to not more than two such tests arising from the same arrest, incident or
34 charge.

35 3. Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid
36 pursuant to the provisions of sections 577.020 to 577.041 shall be performed according to
37 methods approved by the [state department of health and senior services] **highways and**
38 **transportation commission** by licensed medical personnel or by a person possessing a valid
39 permit issued by the [state department of health and senior services] **highways and**
40 **transportation commission** for this purpose.

41 4. The [state department of health and senior services] **highways and transportation**
42 **commission** shall approve satisfactory techniques, devices, equipment, or methods to be
43 considered valid pursuant to the provisions of sections 577.020 to 577.041 and shall establish
44 standards to ascertain the qualifications and competence of individuals to conduct analyses and
45 to issue permits which shall be subject to termination or revocation by the [state department of
46 health and senior services] **highways and transportation commission**.

47 5. The person tested may have a physician, or a qualified technician, chemist, registered
48 nurse, or other qualified person at the choosing and expense of the person to be tested, administer
49 a test in addition to any administered at the direction of a law enforcement officer. The failure
50 or inability to obtain an additional test by a person shall not preclude the admission of evidence
51 relating to the test taken at the direction of a law enforcement officer.

52 6. Upon the request of the person who is tested, full information concerning the test shall
53 be made available to such person.

54 7. Any person given a chemical test of the person's breath pursuant to subsection 1 of
55 this section or a field sobriety test may be videotaped during any such test at the direction of the
56 law enforcement officer. Any such video recording made during the chemical test pursuant to
57 this subsection or a field sobriety test shall be admissible as evidence at either any trial of such
58 person for either a violation of any state law or county or municipal ordinance, or any license
59 revocation or suspension proceeding pursuant to the provisions of chapter 302, RSMo.

 577.026. 1. Chemical tests of the person's breath, blood, saliva, or urine to be considered
2 valid under the provisions of sections 577.020 to 577.041, shall be performed according to
3 methods and devices approved by the [state department of health and senior services] **highways**
4 **and transportation commission** by licensed medical personnel or by a person possessing a valid
5 permit issued by the [state department of health and senior services] **highways and**
6 **transportation commission** for this purpose.

7 2. The [state department of health and senior services] **highways and transportation**
8 **commission** shall approve satisfactory techniques, devices, equipment, or methods to conduct
9 tests required by sections 577.020 to 577.041, and shall establish standards as to the
10 qualifications and competence of individuals to conduct analyses and to issue permits which

11 shall be subject to termination or revocation by the [state department of health and senior
12 services] **highways and transportation commission.**

13 **3. All the powers, duties, and functions described in this section, and all powers,**
14 **duties, and functions under sections 306.114 and 306.117, RSMo, and sections 577.020 and**
15 **577.037, relating to the approval and licensing of personnel, methods, techniques, devices,**
16 **and equipment for the testing of blood alcohol content, including all administrative rules**
17 **and orders, are hereby transferred from the department of health and senior services to**
18 **the department of transportation, which is in the charge of the highways and**
19 **transportation commission, by type I transfer, as defined in the omnibus state**
20 **reorganization act of 1974, and the department of health and senior services and its**
21 **employees, officers, and agents shall no longer be responsible for those powers, duties, and**
22 **functions.**

23 **4. All budget authority to fund the personal services and equipment and expenses**
24 **to carry out the powers, duties, and functions under this section and sections 306.114 and**
25 **306.117, RSMo, and sections 577.020 and 577.037, relating to the approval and licensing**
26 **of personnel, methods, and devices for testing of blood alcohol content shall be transferred**
27 **from the department of health and senior services to the department of transportation and**
28 **all appropriations to fund the powers, duties, and functions transferred under this section**
29 **shall be paid from the general revenue fund.**

30 **5. All credentials, permits, and licenses issued prior to the effective date of this**
31 **transfer by the department of health and senior services under this section and sections**
32 **306.114 and 306.117, RSMo, and sections 577.020 and 577.037, shall remain in force or**
33 **expire as provided by law. In addition, the highways and transportation commission shall**
34 **have the authority to suspend, cancel, or revoke such credentials, permits, and licenses**
35 **after the effective date of this act.**

36 **6. The commission may promulgate administrative rules to administer the powers,**
37 **duties, and functions relating to the approval and licensing of personnel, methods, and**
38 **devices for testing of blood alcohol content. Any rule or portion of a rule, as that term is**
39 **defined in section 536.010, RSMo, that is created under the authority delegated in this**
40 **section shall become effective only if it complies with and is subject to all of the provisions**
41 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**
42 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
43 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
44 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
45 **authority and any rule proposed or adopted after August 28, 2006, shall be invalid and**
46 **void.**

47 **7. Notwithstanding any provision of law to the contrary, on and after the effective**
48 **date of this act, all bonds, certificates of deposit, letters of credit, drafts, checks, or other**
49 **financial instruments payable to the department of health and senior services or any other**
50 **employee, official, or agent whose powers, duties, or functions are transferred under this**
51 **section shall be payable instead to the highways and transportation commission to be**
52 **deposited to the credit of the general revenue fund.**

577.037. 1. Upon the trial of any person for violation of any of the provisions of section
2 565.024, RSMo, or section 565.060, RSMo, or section 577.010 or 577.012, or upon the trial of
3 any criminal action or violations of county or municipal ordinances or in any license suspension
4 or revocation proceeding pursuant to the provisions of chapter 302, RSMo, arising out of acts
5 alleged to have been committed by any person while driving a motor vehicle while in an
6 intoxicated condition, the amount of alcohol in the person's blood at the time of the act alleged
7 as shown by any chemical analysis of the person's blood, breath, saliva or urine is admissible in
8 evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the
9 admissibility or introduction of such evidence if otherwise admissible. If there was
10 eight-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be
11 prima facie evidence that the person was intoxicated at the time the specimen was taken.

12 2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per
13 one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

14 3. The foregoing provisions of this section shall not be construed as limiting the
15 introduction of any other competent evidence bearing upon the question whether the person was
16 intoxicated.

17 4. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise
18 to the presumption or to have the effect provided for in subsection 1 of this section, shall have
19 been performed as provided in sections 577.020 to 577.041 and in accordance with methods and
20 standards approved by the [state department of health and senior services] **highways and**
21 **transportation commission.**

22 5. Any charge alleging a violation of section 577.010 or 577.012 or any county or
23 municipal ordinance prohibiting driving while intoxicated or driving under the influence of
24 alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood,
25 saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated
26 thereunder by the [state department of health and senior services] **highways and transportation**
27 **commission** demonstrate that there was less than eight-hundredths of one percent of alcohol in
28 the defendant's blood unless one or more of the following considerations cause the court to find
29 a dismissal unwarranted:

30 (1) There is evidence that the chemical analysis is unreliable as evidence of the
31 defendant's intoxication at the time of the alleged violation due to the lapse of time between the
32 alleged violation and the obtaining of the specimen;

33 (2) There is evidence that the defendant was under the influence of a controlled
34 substance, or drug, or a combination of either or both with or without alcohol; or

35 (3) There is substantial evidence of intoxication from physical observations of witnesses
36 or admissions of the defendant.

577.208. 1. Chemical tests of the person's breath, blood, or urine to be considered valid
2 shall be performed according to methods and devices approved by the [state department of health
3 and senior services] **highways and transportation commission** and shall be performed by
4 licensed medical personnel or by a person possessing a valid permit issued by the [state
5 department of health and senior services] **highways and transportation commission** for this
6 purpose. A blood test shall not be performed if the medical personnel, in good faith medical
7 judgment, believe such procedure would endanger the health of the person in custody.

8 2. Upon request of the person tested, full information concerning the test shall be made
9 available to him.

10 3. No person administering a chemical test under this section and sections 577.206,
11 577.211 and 577.214, or any other person, firm or corporation with whom he is associated, shall
12 be civilly liable for damages to the person tested except for negligence or by willful or wanton
13 act or omission.

595.010. 1. As used in sections 595.010 to 595.075, unless the context requires
2 otherwise, the following terms shall mean:

3 (1) "Child", a dependent, unmarried person who is under eighteen years of age and
4 includes a posthumous child, stepchild, or an adopted child;

5 (2) "Claimant", a victim or a dependent, relative, survivor, or member of the family, of
6 a victim eligible for compensation pursuant to sections 595.010 to 595.075;

7 (3) "Conservator", a person or corporation appointed by a court to have the care and
8 custody of the estate of a minor or a disabled person, including a limited conservator;

9 (4) "Counseling", problem-solving and support concerning emotional issues that result
10 from criminal victimization licensed pursuant to section 595.030. Counseling is a confidential
11 service provided either on an individual basis or in a group. Counseling has as a primary purpose
12 to enhance, protect and restore a person's sense of well-being and social functioning after
13 victimization. Counseling does not include victim advocacy services such as crisis telephone
14 counseling, attendance at medical procedures, law enforcement interviews or criminal justice
15 proceedings;

16 (5) "Crime", an act committed in this state which, if committed by a mentally competent,
17 criminally responsible person who had no legal exemption or defense, would constitute a crime;
18 provided that, such act involves the application of force or violence or the threat of force or
19 violence by the offender upon the victim but shall include the crime of driving while intoxicated,
20 vehicular manslaughter and hit and run; and provided, further, that no act involving the operation
21 of a motor vehicle except driving while intoxicated, vehicular manslaughter and hit and run
22 which results in injury to another shall constitute a crime for the purpose of sections 595.010 to
23 595.075, unless such injury was intentionally inflicted through the use of a motor vehicle. A
24 crime shall also include an act of terrorism, as defined in 18 U.S.C. section 2331, which has been
25 committed outside of the United States against a resident of Missouri;

26 (6) "Crisis intervention counseling", helping to reduce psychological trauma where
27 victimization occurs;

28 (7) "Department", the department of public safety;

29 (8) "Dependent", mother, father, spouse, spouse's mother, spouse's father, child,
30 grandchild, adopted child, illegitimate child, niece or nephew, who is wholly or partially
31 dependent for support upon, and living with, but shall include children entitled to child support
32 but not living with, the victim at the time of his injury or death due to a crime alleged in a claim
33 pursuant to sections 595.010 to 595.070;

34 (9) "Direct service", providing physical services to a victim of crime including, but not
35 limited to, transportation, funeral arrangements, child care, emergency food, clothing, shelter,
36 notification and information;

37 (10) "Director", the director of public safety of this state or a person designated by him
38 for the purposes of sections 595.010 to 595.070;

39 (11) "Disabled person", one who is unable by reason of any physical or mental condition
40 to receive and evaluate information or to communicate decisions to such an extent that the
41 person lacks ability to manage his financial resources, including a partially disabled person who
42 lacks the ability, in part, to manage his financial resources;

43 (12) ["Division", the division of workers' compensation of the state of Missouri;

44 (13)] "Emergency service", those services provided within thirty days to alleviate the
45 immediate effects of the criminal act or offense, and may include cash grants of not more than
46 one hundred dollars;

47 [(14)] (13) "Earnings", net income or net wages;

48 [(15)] (14) "Family", the spouse, parent, grandparent, stepmother, stepfather, child,
49 grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse's
50 parents;

51 [(16)] **(15)** "Funeral expenses", the expenses of the funeral, burial, cremation or other
52 chosen method of interment, including plot or tomb and other necessary incidents to the
53 disposition of the remains;

54 [(17)] **(16)** "Gainful employment", engaging on a regular and continuous basis, up to
55 the date of the incident upon which the claim is based, in a lawful activity from which a person
56 derives a livelihood;

57 [(18)] **(17)** "Guardian", one appointed by a court to have the care and custody of the
58 person of a minor or of an incapacitated person, including a limited guardian;

59 [(19)] **(18)** "Hit and run", the crime of leaving the scene of a motor vehicle accident as
60 defined in section 577.060, RSMo;

61 [(20)] **(19)** "Incapacitated person", one who is unable by reason of any physical or
62 mental condition to receive and evaluate information or to communicate decisions to such an
63 extent that he lacks capacity to meet essential requirements for food, clothing, shelter, safety or
64 other care such that serious physical injury, illness, or disease is likely to occur, including a
65 partially incapacitated person who lacks the capacity to meet, in part, such essential
66 requirements;

67 [(21)] **(20)** "Injured victim", a person:

68 (a) Killed or receiving a personal physical injury in this state as a result of another
69 person's commission of or attempt to commit any crime;

70 (b) Killed or receiving a personal physical injury in this state while in a good faith
71 attempt to assist a person against whom a crime is being perpetrated or attempted;

72 (c) Killed or receiving a personal physical injury in this state while assisting a law
73 enforcement officer in the apprehension of a person who the officer has reason to believe has
74 perpetrated or attempted a crime;

75 [(22)] **(21)** "Law enforcement official", a sheriff and his regular deputies, municipal
76 police officer or member of the Missouri state highway patrol and such other persons as may be
77 designated by law as peace officers;

78 [(23)] **(22)** "Offender", a person who commits a crime;

79 [(24)] **(23)** "Personal physical injury", actual bodily harm only with respect to the
80 victim. Personal physical injury may include mental or nervous shock resulting from the specific
81 incident upon which the claim is based;

82 [(25)] **(24)** "Private agency", a not-for-profit corporation, in good standing in this state,
83 which provides services to victims of crime and their dependents;

84 [(26)] **(25)** "Public agency", a part of any local or state government organization which
85 provides services to victims of crime;

86 [(27)] **(26)** "Relative", the spouse of the victim or a person related to the victim within
87 the third degree of consanguinity or affinity as calculated according to civil law;

88 [(28)] **(27)** "Survivor", the spouse, parent, legal guardian, grandparent, sibling or child
89 of the deceased victim of the victim's household at the time of the crime;

90 [(29)] **(28)** "Victim", a person who suffers personal physical injury or death as a direct
91 result of a crime, as defined in subdivision (5) of this subsection;

92 [(30)] **(29)** "Victim advocacy", assisting the victim of a crime and his dependents to
93 acquire services from existing community resources.

94 2. As used in sections 565.024 and 565.060, RSMo, and sections 595.010 to 595.075,
95 the term "alcohol-related traffic offense" means those offenses defined by sections 577.001,
96 577.010, and 577.012, RSMo, and any county or municipal ordinance which prohibits operation
97 of a motor vehicle while under the influence of alcohol.

595.015. 1. The [division of workers' compensation] **department of public safety** shall,
2 pursuant to the provisions of sections 595.010 to 595.075, have jurisdiction to determine and
3 award compensation to, or on behalf of, victims of crimes. The [division of workers'
4 compensation] **department of public safety** may pay directly to the provider of the services
5 compensation for medical or funeral expenses, or expenses for other services as described in
6 section 595.030, incurred by the claimant. The [division] **department** is not required to provide
7 compensation in any case, nor is it required to award the full amount claimed. The [division]
8 **department** shall make its award of compensation based upon independent verification obtained
9 during its investigation.

10 2. Such claims shall be made by filing an application for compensation with the [division
11 of workers' compensation] **department of public safety**. The application form shall be
12 furnished by the [division] **department** and the signature shall be notarized. The application
13 shall include:

14 (1) The name and address of the victim;

15 (2) If the claimant is not the victim, the name and address of the claimant and
16 relationship to the victim, the names and addresses of the victim's dependents, if any, and the
17 extent to which each is so dependent;

18 (3) The date and nature of the crime or attempted crime on which the application for
19 compensation is based;

20 (4) The date and place where, and the law enforcement officials to whom, notification
21 of the crime was given;

22 (5) The nature and extent of the injuries sustained by the victim, the names and addresses
23 of those giving medical and hospital treatment to the victim and whether death resulted;

24 (6) The loss to the claimant or a dependent resulting from the injury or death;

25 (7) The amount of benefits, payments or awards, if any, payable from any source which
26 the claimant or dependent has received or for which the claimant or dependent is eligible as a
27 result of the injury or death;

28 (8) Releases authorizing the surrender to the [division] **department** of reports,
29 documents and other information relating to the matters specified under this section; and

30 (9) Such other information as the [division] **department** determines is necessary.

31 3. In addition to the application, the [division] **department** may require that the claimant
32 submit materials substantiating the facts stated in the application.

33 4. If the [division] **department** finds that an application does not contain the required
34 information or that the facts stated therein have not been substantiated, it shall notify the
35 claimant in writing of the specific additional items of information or materials required and that
36 the claimant has thirty days from the date of mailing in which to furnish those items to the
37 [division] **department**. Unless a claimant requests and is granted an extension of time by the
38 [division] **department**, the [division] **department** shall reject with prejudice the claim of the
39 claimant for failure to file the additional information or materials within the specified time.

40 5. The claimant may file an amended application or additional substantiating materials
41 to correct inadvertent errors or omissions at any time before the [division] **department** has
42 completed its consideration of the original application.

43 6. The claimant, victim or dependent shall cooperate with law enforcement officials in
44 the apprehension and prosecution of the offender in order to be eligible, or the [division]
45 **department** has found that the failure to cooperate was for good cause.

46 7. Any state or local agency, including a prosecuting attorney or law enforcement agency,
47 shall make available without cost to the fund, all reports, files and other appropriate information
48 which the [division] **department** requests in order to make a determination that a claimant is
49 eligible for an award pursuant to sections 595.010 to 595.075.

595.020. 1. Except as hereinafter provided, the following persons shall be eligible for
2 compensation pursuant to sections 595.010 to 595.075:

3 (1) A victim of a crime;

4 (2) In the case of a sexual assault victim:

5 (a) A relative of the victim requiring counseling in order to better assist the victim in his
6 recovery; and

7 (3) In the case of the death of the victim as a direct result of the crime:

8 (a) A dependent of the victim;

9 (b) Any member of the family who legally assumes the obligation, or who pays the
10 medical or burial expenses incurred as a direct result thereof; and

11 (c) A survivor of the victim requiring counseling as a direct result of the death of the
12 victim.

13 2. An offender or an accomplice of an offender shall in no case be eligible to receive
14 compensation with respect to a crime committed by the offender. No victim or dependent shall
15 be denied compensation solely because he is a relative of the offender or was living with the
16 offender as a family or household member at the time of the injury or death. However, the
17 [division] **department** may award compensation to a victim or dependent who is a relative,
18 family or household member of the offender only if the [division] **department** can reasonably
19 determine the offender will receive no substantial economic benefit or unjust enrichment from
20 the compensation.

21 3. No compensation of any kind may be made to a victim or intervenor injured while
22 confined in any federal, state, county, or municipal jail, prison or other correctional facility,
23 including house arrest.

24 4. No compensation of any kind may be made to a victim who has been finally
25 adjudicated and found guilty, in a criminal prosecution under the laws of this state, of two
26 felonies within the past ten years, of which one or both involves illegal drugs or violence. The
27 [division] **department** may waive this restriction if it determines that the interest of justice
28 would be served otherwise.

29 5. In the case of a claimant who is not otherwise ineligible pursuant to subsection 4 of
30 this section, who is incarcerated as a result of a conviction of a crime not related to the incident
31 upon which the claim is based at the time of application, or at any time following the filing of
32 the application:

33 (1) The [division] **department** shall suspend all proceedings and payments until such
34 time as the claimant is released from incarceration;

35 (2) The [division] **department** shall notify the applicant at the time the proceedings are
36 suspended of the right to reactivate the claim within six months of release from incarceration.
37 The notice shall be deemed sufficient if mailed to the applicant at the applicant's last known
38 address;

39 (3) The claimant shall file an application to request that the case be reactivated not later
40 than six months after the date the claimant is released from incarceration. Failure to file such
41 request within the six-month period shall serve as a bar to any recovery.

42 6. Victims of crime who are not residents of the state of Missouri may be compensated
43 only when federal funds are available for that purpose. Compensation for nonresident victims
44 shall terminate when federal funds for that purpose are no longer available.

45 7. A Missouri resident who suffers personal physical injury or, in the case of death, a
46 dependent of the victim or any member of the family who legally assumes the obligation, or who

47 pays the medical or burial expenses incurred as a direct result thereof, in another state,
48 possession or territory of the United States may make application for compensation in Missouri
49 if:

50 (1) The victim of the crime would be compensated if the crime had occurred in the state
51 of Missouri;

52 (2) The place that the crime occurred is a state, possession or territory of the United
53 States, or location outside of the United States that is covered and defined in 18 U.S.C. section
54 2331, that does not have a crime victims' compensation program for which the victim is eligible
55 and which provides at least the same compensation that the victim would have received if he had
56 been injured in Missouri.

595.025. 1. A claim for compensation may be filed by a person eligible for
2 compensation or, if the person is an incapacitated or disabled person, or a minor, by the person's
3 spouse, parent, conservator, or guardian.

4 2. A claim shall be filed not later than two years after the occurrence of the crime or the
5 discovery of the crime upon which it is based.

6 3. Each claim shall be filed in person or by mail. The [division of workers'
7 compensation] **department of public safety** shall investigate such claim, prior to the opening
8 of formal proceedings. The claimant shall be notified of the date and time of any hearing on such
9 claim. In determining the amount of compensation for which a claimant is eligible, the [division]
10 **department** shall consider the facts stated on the application filed pursuant to section 595.015,
11 and:

12 (1) Need not consider whether or not the alleged assailant has been apprehended or
13 brought to trial or the result of any criminal proceedings against that person; however, if any
14 person is convicted of the crime which is the basis for an application for compensation, proof
15 of the conviction shall be conclusive evidence that the crime was committed;

16 (2) Shall determine the amount of the loss to the claimant, or the victim's survivors or
17 dependents;

18 (3) Shall determine the degree or extent to which the victim's acts or conduct provoked,
19 incited, or contributed to the injuries or death of the victim.

20 4. The claimant may present evidence and testimony on his own behalf or may retain
21 counsel. The [division of workers' compensation] **department of public safety** may, as part of
22 any award entered under sections 595.010 to 595.075, determine and allow reasonable attorney's
23 fees, which shall not exceed fifteen percent of the amount awarded as compensation under
24 sections 595.010 to 595.075, which fee shall be paid out of, but not in addition to, the amount
25 of compensation, to the attorney representing the claimant. No attorney for the claimant shall
26 ask for, contract for or receive any larger sum than the amount so allowed.

27 5. The person filing a claim shall, prior to any hearing thereon, submit reports, if
28 available, from all hospitals, physicians or surgeons who treated or examined the victim for the
29 injury for which compensation is sought. If, in the opinion of the [division of workers'
30 compensation] **department of public safety**, an examination of the injured victim and a report
31 thereon, or a report on the cause of death of the victim, would be of material aid, the [division
32 of workers' compensation] **department of public safety** may appoint a duly qualified, impartial
33 physician to make such examination and report.

34 6. Each and every payment shall be exempt from attachment, garnishment or any other
35 remedy available to creditors for the collection of a debt.

36 7. Payments of compensation shall not be made directly to any person legally
37 incompetent to receive them but shall be made to the parent, guardian or conservator for the
38 benefit of such minor, disabled or incapacitated person.

 595.027. 1. Upon request by the [division] **department** for verification of injuries of
2 victims, medical providers shall submit the information requested by the [division] **department**
3 within twenty working days of the request at no cost to the fund.

4 2. For purposes of this section, "medical providers" means physicians, dentists, clinical
5 psychologists, optometrists, podiatrists, registered nurses, physician's assistants, chiropractors,
6 physical therapists, hospitals, ambulatory surgical centers, and nursing homes.

7 3. Failure to submit the information as required by this section shall be an infraction.

 595.030. 1. No compensation shall be paid unless the claimant has incurred an
2 out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support
3 from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable
4 expenses or indebtedness reasonably incurred for medical care or other services, including
5 psychiatric, psychological or counseling expenses, necessary as a result of the crime upon which
6 the claim is based, except that the amount paid for psychiatric, psychological or counseling
7 expenses per eligible claim shall not exceed two thousand five hundred dollars.

8 2. No compensation shall be paid unless the [division of workers' compensation]
9 **department of public safety** finds that a crime was committed, that such crime directly resulted
10 in personal physical injury to, or the death of, the victim, and that police records show that such
11 crime was promptly reported to the proper authorities. In no case may compensation be paid if
12 the police records show that such report was made more than forty-eight hours after the
13 occurrence of such crime, unless the [division of workers' compensation] **department of public**
14 **safety** finds that the report to the police was delayed for good cause. If the victim is under
15 eighteen years of age such report may be made by the victim's parent, guardian or custodian; by
16 a physician, a nurse, or hospital emergency room personnel; by the division of family services
17 personnel; or by any other member of the victim's family.

18 3. No compensation shall be paid for medical care if the service provider is not a medical
19 provider as that term is defined in section 595.027, and the individual providing the medical care
20 is not licensed by the state of Missouri or the state in which the medical care is provided.

21 4. No compensation shall be paid for psychiatric treatment or other counseling services,
22 including psychotherapy, unless the service provider is a:

23 (1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine
24 in the state in which the service is provided;

25 (2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice
26 psychology in the state in which the service is provided;

27 (3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

28 (4) Professional counselor licensed pursuant to chapter 337, RSMo.

29 5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal
30 injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or
31 support from gainful employment, not to exceed two hundred dollars per week, resulting from
32 such injury or death. In the event of death of the victim, an award may be made for reasonable
33 and necessary expenses actually incurred for preparation and burial not to exceed five thousand
34 dollars.

35 6. Any compensation for loss of earnings or support from gainful employment shall be
36 in an amount equal to the actual loss sustained not to exceed two hundred dollars per week;
37 provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed
38 twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of
39 the death of a person which is the direct result of a crime or in the case of a sexual assault, the
40 compensation shall be apportioned by the [division of workers' compensation] **department of**
41 **public safety** among the claimants in proportion to their loss.

42 7. The method and timing of the payment of any compensation pursuant to sections
43 595.010 to 595.075 shall be determined by the [division] **department**.

 595.035. 1. For the purpose of determining the amount of compensation payable
2 pursuant to sections 595.010 to 595.075, the [division of workers' compensation] **department**
3 **of public safety** shall, insofar as practicable, formulate standards for the uniform application of
4 sections 595.010 to 595.075, taking into consideration the provisions of sections 595.010 to
5 595.075, the rates and amounts of compensation payable for injuries and death pursuant to other
6 laws of this state and of the United States, excluding pain and suffering, and the availability of
7 funds appropriated for the purpose of sections 595.010 to 595.075. All decisions of the [division
8 of workers' compensation] **department of public safety** on claims heard pursuant to sections
9 595.010 to 595.075 shall be in writing, setting forth the name of the claimant, the amount of
10 compensation and the reasons for the decision. The [division of workers' compensation]

11 **department of public safety** shall immediately notify the claimant in writing of the decision and
12 shall forward to the state treasurer a certified copy of the decision and a warrant for the amount
13 of the claim. The state treasurer, upon certification by the commissioner of administration, shall,
14 if there are sufficient funds in the crime victims' compensation fund, pay to or on behalf of the
15 claimant the amount determined by the [division] **department**.

16 2. The crime victims' compensation fund is not a state health program and is not intended
17 to be used as a primary payor to other health care assistance programs, but is a public,
18 quasi-charitable fund whose fundamental purpose is to assist victims of violent crimes through
19 a period of financial hardship, as a payor of last resort. Accordingly, any compensation paid
20 pursuant to sections 595.010 to 595.075 shall be reduced by the amount of any payments,
21 benefits or awards received or to be received as a result of the injury or death:

22 (1) From or on behalf of the offender;

23 (2) Under private or public insurance programs, including champus, Medicare, Medicaid
24 and other state or federal programs, but not including any life insurance proceeds; or

25 (3) From any other public or private funds, including an award payable pursuant to the
26 workers' compensation laws of this state.

27 3. In determining the amount of compensation payable, the [division of workers'
28 compensation] **department of public safety** shall determine whether, because of the victim's
29 consent, provocation, incitement or negligence, the victim contributed to the infliction of the
30 victim's injury or death, and shall reduce the amount of the compensation or deny the claim
31 altogether, in accordance with such determination; provided, however, that the [division of
32 workers' compensation] **department of public safety** may disregard the responsibility of the
33 victim for his or her own injury where such responsibility was attributable to efforts by the
34 victim to aid a victim, or to prevent a crime or an attempted crime from occurring in his or her
35 presence, or to apprehend a person who had committed a crime in his or her presence or had in
36 fact committed a felony.

37 4. In determining the amount of compensation payable pursuant to sections 595.010 to
38 595.070, monthly Social Security disability or retirement benefits received by the victim shall
39 not be considered by the [division] **department** as a factor for reduction of benefits.

40 5. The [division] **department** shall not be liable for payment of compensation for any
41 out-of-pocket expenses incurred more than three years following the date of the occurrence of
42 the crime upon which the claim is based.

595.036. [1.] Any [of the parties] **party** to a decision of the [division of workers'
2 compensation] **department of public safety** on a claim heard under the provisions of sections
3 595.010 to 595.070 may, within thirty days following the date of notification or mailing of such
4 decision, file a petition with the [labor and industrial relations commission] **administrative**

5 **hearing commission under the provisions of section 621.060, RSMo**, to have such decision
6 reviewed by the commission. [The commission may allow or deny a petition for review. If a
7 petition is allowed, the commission may affirm, reverse, or set aside the decision of the division
8 of workers' compensation on the basis of the evidence previously submitted in such case or may
9 take additional evidence or may remand the matter to the division of workers' compensation with
10 directions. The commission shall promptly notify the parties of its decision and the reasons
11 therefor.

12 2. Any petition for review filed pursuant to subsection 1 of this section shall be deemed
13 to be filed as of the date endorsed by the United States Postal Service on the envelope or
14 container in which such petition is received.

15 3. Any party who is aggrieved by a final decision of the labor and industrial relations
16 commission pursuant to the provisions of subsections 1 and 2 of this section may seek judicial
17 review thereof, as provided in sections 536.100 to 536.140, RSMo.]

595.037. 1. All information submitted to the [division] **department** and any hearing of
2 the [division] **department** on a claim filed pursuant to sections 595.010 to 595.070 shall be open
3 to the public except for the following claims which shall be deemed closed and confidential:

4 (1) A claim in which the alleged assailant has not been brought to trial and disclosure
5 of the information or a public hearing would adversely affect either the apprehension, or the trial,
6 of the alleged assailant;

7 (2) A claim in which the offense allegedly perpetrated against the victim is rape, sodomy
8 or sexual abuse and it is determined by the [division] **department** to be in the best interest of the
9 victim or of the victim's dependents that the information be kept confidential or that the public
10 be excluded from the hearing;

11 (3) A claim in which the victim or alleged assailant is a minor; or

12 (4) A claim in which any record or report obtained by the [division] **department**, the
13 confidentiality of which is protected by any other law, shall remain confidential subject to such
14 law.

15 2. The [division] **department**, by separate order, may close any record, report or hearing
16 if it determines that the interest of justice would be frustrated rather than furthered if such record
17 or report was disclosed or if the hearing was open to the public.

595.040. 1. Acceptance of any compensation under sections 595.010 to 595.075 shall
2 subrogate this state, to the extent of such compensation paid, to any right or right of action
3 accruing to the claimant or to the victim to recover payments on account of losses resulting from
4 the crime with respect to which the compensation has been paid. The attorney general may
5 enforce the subrogation, and he shall bring suit to recover from any person to whom
6 compensation is paid, to the extent of the compensation actually paid under sections 595.010 to

7 595.075, any amount received by the claimant from any source exceeding the actual loss to the
8 victim.

9 2. The [division] **department** shall have a lien on any compensation received by the
10 claimant, in addition to compensation received under provisions of sections 595.010 to 595.075,
11 for injuries or death resulting from the incident upon which the claim is based. The claimant
12 shall retain, as trustee for the [division] **department**, so much of the recovered funds as
13 necessary to reimburse the Missouri crime victims' compensation fund to the extent that
14 compensation was awarded to the claimant from that fund.

15 3. If a claimant initiates any legal proceeding to recover restitution or damages related
16 to the crime upon which the claim is based, or if the claimant enters into negotiations to receive
17 any proceeds in settlement of a claim for restitution or damages related to the crime, the claimant
18 shall give the [division] **department** written notice within fifteen days of the filing of the action
19 or entering into negotiations. The [division] **department** may intervene in the proceeding of a
20 complainant to recover the compensation awarded. If a claimant fails to give such written notice
21 to the [division] **department** within the stated time period, or prior to any attempt by claimant
22 to reach a negotiated settlement of claims for recovery of damages related to the crime upon
23 which the claim is based, the [division's] **department's** right of subrogation to receive or recover
24 funds from claimant, to the extent that compensation was awarded by the [division] **department**,
25 shall not be reduced in any amount or percentage by the costs incurred by claimant attributable
26 to such legal proceedings or settlement, including, but not limited to, attorney's fees,
27 investigative cost or cost of court. If such notice is given, attorney fees may be awarded in an
28 amount not to exceed fifteen percent of the amount subrogated to the [division] **department**.

29 4. Whenever compensation is awarded to a claimant who is entitled to restitution from
30 a criminal defendant, the [division] **department** may initiate restitution hearings in such criminal
31 proceedings or intervene in the same. The [division] **department** shall be entitled to receive
32 restitution in such proceedings to the extent compensation was awarded; provided, however, the
33 [division] **department** shall be exempt from the payment of any fees or other charges for the
34 recording of restitution orders in the offices of the judges of probate. The claimant shall notify
35 this [division] **department** when restitution is ordered. Failure to notify the [division]
36 **department** will result in possible forfeiture of any amount already received from the [division]
37 **department**.

38 5. Whenever the [division] **department** shall deem it necessary to protect, maintain or
39 enforce the [division's] **department's** right to subrogation or to exercise any of its powers or to
40 carry out any of its duties or responsibilities, the attorney general may initiate legal proceedings
41 or intervene in legal proceedings as the [division's] **department's** legal representative.

595.045. 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020, RSMo, and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health and senior services. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

4. The remaining funds collected under subsection 1 of this section shall be denoted to the payment of an annual appropriation for the administrative and operational costs of the office for victims of crime and, if a statewide automated crime victim notification system is established pursuant to section 650.310, RSMo, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on September 1, 2004, and on the first of each month, the director of revenue or the director's designee shall deposit fifty percent of the balance of funds available to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100.

37 5. The director of revenue or such director's designee shall at least monthly report the
38 moneys paid pursuant to this section into the crime victims' compensation fund and the services
39 to victims fund to the [division of workers' compensation and the] department of public safety[,
40 respectively].

41 6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this
42 section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo.
43 Five percent of such moneys shall be payable to the city treasury of the city from which such
44 funds were collected. The remaining ninety-five percent of such moneys shall be payable to the
45 director of revenue. The funds received by the director of revenue pursuant to this subsection
46 shall be distributed as follows:

47 (1) On the first of every month, the director of revenue or the director's designee shall
48 determine the balance of the funds in the crime victims' compensation fund available to satisfy
49 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections
50 595.050 and 595.055;

51 (2) Beginning on September 1, 2004, and on the first of each month the director of
52 revenue or the director's designee shall deposit fifty percent of the balance of funds available to
53 the credit of the crime victims' compensation fund and fifty percent to the services to victims'
54 fund established in section 595.100.

55 7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such
56 audit shall include all records associated with crime victims' compensation funds collected, held
57 or disbursed by any state agency.

58 8. In addition to the moneys collected pursuant to subsection 1 of this section, the court
59 shall enter a judgment in favor of the state of Missouri, payable to the crime victims'
60 compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class
61 A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C or D felony;
62 and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under Missouri
63 law except for those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo,
64 relating to drivers' and commercial drivers' license, chapter 303, RSMo, relating to motor vehicle
65 financial responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo,
66 relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle
67 equipment regulations. Any clerk of the court receiving moneys pursuant to such judgments
68 shall collect and disburse such crime victims' compensation judgments in the manner provided
69 by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and
70 deposited to the credit of the crime victims' compensation fund.

71 9. The clerk of the court processing such funds shall maintain records of all dispositions
72 described in subsection 1 of this section and all dispositions where a judgment has been entered

73 against a defendant in favor of the state of Missouri in accordance with this section; all payments
74 made on judgments for alcohol-related traffic offenses; and any judgment or portion of a
75 judgment entered but not collected. These records shall be subject to audit by the state auditor.
76 The clerk of each court transmitting such funds shall report separately the amount of dollars
77 collected on judgments entered for alcohol-related traffic offenses from other crime victims'
78 compensation collections or services to victims collections.

79 10. The department of revenue shall maintain records of funds transmitted to the crime
80 victims' compensation fund by each reporting court and collections pursuant to subsection 16 of
81 this section and shall maintain separate records of collection for alcohol-related offenses.

82 11. The state courts administrator shall include in the annual report required by section
83 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation
84 judgments entered.

85 12. All awards made to injured victims under sections 595.010 to 595.105 and all
86 appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and
87 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance
88 remaining in the crime victims' compensation fund at the end of each biennium shall not be
89 subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended
90 balance to the ordinary revenue fund of the state, but shall remain in the crime victims'
91 compensation fund. In the event that there are insufficient funds in the crime victims'
92 compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there
93 are no funds in the crime victims' compensation fund, then no claim shall be paid until funds
94 have again accumulated in the crime victims' compensation fund. When sufficient funds become
95 available from the fund, awards which have not been paid shall be paid in chronological order
96 with the oldest paid first. In the event an award was to be paid in installments and some
97 remaining installments have not been paid due to a lack of funds, then when funds do become
98 available that award shall be paid in full. All such awards on which installments remain due
99 shall be paid in full in chronological order before any other postdated award shall be paid. Any
100 award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid
101 due to a lack of funds in the crime victims' compensation fund.

102 13. When judgment is entered against a defendant as provided in this section and such
103 sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement,
104 payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to
105 such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be
106 paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall
107 be entered on the court record. Under no circumstances shall the general revenue fund be used
108 to reimburse court costs or pay for such judgment. The director of the department of corrections

109 shall have the authority to pay into the crime victims' compensation fund from an offender's
110 compensation or account the amount owed by the offender to the crime victims' compensation
111 fund, provided that the offender has failed to pay the amount owed to the fund prior to entering
112 a correctional facility of the department of corrections.

113 14. All interest earned as a result of investing funds in the crime victims' compensation
114 fund shall be paid into the crime victims' compensation fund and not into the general revenue of
115 this state.

116 15. Any person who knowingly makes a fraudulent claim or false statement in
117 connection with any claim hereunder is guilty of a class A misdemeanor.

118 16. [Any gifts, contributions, grants or federal funds specifically given to the division
119 for the benefit of victims of crime shall be credited to the crime victims' compensation fund.
120 Payment or expenditure of moneys in such funds shall comply with any applicable federal crime
121 victims' compensation laws, rules, regulations or other applicable federal guidelines] **The**
122 **department may receive gifts and contributions for the benefit of victims of crime. These**
123 **contributions shall be credited to the crime victim compensation fund and used solely for**
124 **compensating victims under the provisions of sections 595.010 to 595.075.**

2 595.060. The director shall promulgate rules and regulations necessary to implement
3 the provisions of sections 595.010 to 595.070 as provided in this section and chapter 536, RSMo.
4 In the performance of its functions under sections 595.010 to 595.070, the [division] **department**
5 is authorized to promulgate rules pursuant to chapter 536, RSMo, prescribing the procedures to
6 be followed in the filing of applications and the proceedings under sections 595.010 to 595.070.
7 No rule or portion of a rule promulgated under the authority of this chapter shall become
effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

2 **621.060. 1. Any person seeking compensation under the provisions of sections**
3 **595.100 to 595.070, RSMo, who is aggrieved by the decision of the department of public**
4 **safety regarding his or her compensation claim may seek review by the administrative**
5 **hearing commission of the department's decision.**

6 **2. The procedures applicable to the processing of such hearings and determinations**
7 **shall be those established by chapter 536, RSMo. Decisions of the administrative hearing**
8 **commission under this section shall be binding subject to appeal by either party.**

2 [21.475. 1. Because wetlands are a vital natural resource and wetland
3 conversion is of vital interest to Missouri farmers, conservationists, and
4 landowners, for oversight of various activities of the department of natural
5 resources and other agencies, the senate and the house of representatives shall
6 establish a "Joint Committee on Wetlands", composed of five members of the
7 senate, appointed by the president pro tem of the senate, and five members of the
house of representatives, appointed by the speaker of the house. Not more than

8 three members appointed by the president pro tem and not more than three
9 members appointed by the speaker of the house shall be from the same political
10 party. Any state department or agency except the department of conservation and
11 the department of transportation shall obtain the approval of the joint committee
12 on wetlands prior to entering into a contract with any entity of the government or
13 any private entity to conduct any activity relating to the definition, preservation
14 or restoration of wetlands. Each department, division and agency of state
15 government shall provide any information relating to the state's wetlands to the
16 joint committee on wetlands upon request of the committee.

17 2. The committee may hold hearings and conduct investigations within
18 the state as it deems advisable, and the members shall receive no additional
19 compensation, other than reimbursement for their actual and necessary expenses
20 incurred in the performance of their duties. The staff of the committee on
21 legislative research, house research, and senate research shall provide necessary
22 clerical, research, fiscal and legal services to the committee, as the committee
23 may request.]
24

2 [21.780. Every ten years after August 28, 1997, a review of county
3 salaries shall be made by the general assembly. A committee consisting of three
4 members of the house of representatives appointed by the speaker and three
5 members of the senate appointed by the president pro tem shall carry out the
6 review. The committee shall complete its review by December thirty-first of the
7 year in which the committee is appointed. Legislation to revise the then existing
8 salary schedules may be filed at the next following session of the general
9 assembly.]

2 [32.250. There is hereby established the "Multistate Tax Compact
3 Advisory Committee" composed of the member of the multistate tax commission
4 representing this state, any alternate designated by him, the attorney general or
5 his designee, and two members of the senate, appointed by the president pro tem
6 thereof and two members of the house of representatives, appointed by the
7 speaker thereof. The chairman shall be the member of the commission
8 representing this state. The committee shall meet on the call of its chairman or
9 at the request of a majority of its members, but in any event it shall meet not less
10 than three times in each year. The committee may consider any and all matters
11 relating to recommendations of the multistate tax commission and the activities
12 of the members in representing this state thereon.]

2 [32.260. The multistate tax compact advisory committee may employ
3 counsel to represent it or to act for it, and may fix his compensation within the
4 limits of funds appropriated to the committee.]

[253.375. 1. As a necessary adjunct to the operation and maintenance of this memorial and historic site, as herein provided, there is hereby created a state advisory commission, to be known as "The Thomas Hart Benton Homestead Memorial Commission", to consist of twenty members, ten members to be appointed by the director of the department of natural resources, five members to be appointed by the president pro tem of the senate and five members to be appointed by the speaker of the house. The appointees shall be selected from outstanding individuals, not restricted to citizens of the state, well-known for their interest in and knowledge of Thomas Hart Benton, his life and his work, and in addition thereto, the director of the department of natural resources, the chairman of the Missouri advisory council on historic preservation, which advisory commission, upon original appointment, is hereby empowered to organize itself and to elect its own officers for such term or terms as the commission shall from time to time determine. Any vacancy on the advisory commission shall be filled by the same official who appointed the person who left the commission thus creating such vacancy.

2. The commission shall be advisory to the division of state parks and recreation of the department of natural resources on all policy and administrative matters pertaining to planning, operation and maintenance, including museum activities, the employment of curators, staff employees or other persons, as may be needed.

3. The members of the commission shall not receive any compensation for their services, but shall be reimbursed for their actual and necessary expenses, excluding travel expenses, incurred within the state of Missouri in the performance of their duties.

4. The commission is empowered, in behalf of the state, to accept gifts, contributions, bequests of unrestricted funds, from individuals, foundations, corporations and other organizations or institutions for the furtherance of the objectives and purposes of this memorial.

5. The commission may request from any department, division, board, bureau, council, commission or other agency of this state such assistance and data as will enable it to properly carry out its powers and duties hereunder; and the director of the department of natural resources shall make provision for the staffing and servicing of the commission, and providing the necessary funding to carry out its duties, from funds appropriated or otherwise available to that department.]

[260.725. 1. There is hereby created within the department of natural resources the "Low-level Radioactive Waste Compact Advisory Committee". The committee shall consist of one representative of an institution of higher education, one representative of the general public, one representative of industry, one representative of a medical field, one member of the Missouri house of representatives, one member of the Missouri senate and Missouri's member on

7 the midwest low-level radioactive waste compact commission. If Missouri is
8 designated a host state for a regional disposal facility, the advisory committee
9 shall be expanded to include a representative from the host county. Each member
10 shall be appointed by the governor with the advice and consent of the senate,
11 except that the member from the Missouri house of representatives shall be
12 appointed by the speaker of the house and the member from the Missouri senate
13 shall be appointed by the president pro tempore of the senate. Any representative
14 of a host county shall be nominated by the county court of the host county and
15 appointed by the governor. Each member shall serve for a term of four years
16 with the first members' appointments staggered so that all members' terms do not
17 expire simultaneously.

18 2. The advisory committee shall:

19 (1) Act in an advisory capacity to Missouri's member on the commission;

20 (2) Meet as necessary, but at least twice yearly, to review activities of the
21 commission and midwest interstate low-level radioactive waste compact states;
22 and

23 (3) Present recommendations in writing to the governor and the general
24 assembly as requested or as necessary to insure adequate exchange of
25 information.]
26

[622.055. 1. A "Transportation Development Commission" is hereby
2 established. It shall consist of five senators appointed by the president pro tem
3 of the senate, five representatives appointed by the speaker of the house of
4 representatives, and five persons, not less than one of whom shall be an intrastate
5 certificated carrier, not less than one of whom shall be associated with a railroad
6 industry, and not less than one of whom shall be a shipper, appointed by the
7 director of the department of economic development.

8 2. The commission shall meet and organize by electing one legislative
9 member as chairman and another legislative member as vice chairman. The
10 commission shall meet as often as necessary to carry out its duties at such places
11 as may be convenient for this purpose.

12 3. Members shall not receive any compensation for the performance of
13 their duties, but all shall be reimbursed for actual and necessary expenses
14 incurred in the performance of those duties, the legislative members from the
15 contingent funds of their respective houses, and the public members from funds
16 appropriated to the department of economic development.]
17

[622.057. The transportation development commission shall study the
2 implementation of the provisions of sections 622.010 to 622.059 and section
3 680.307, RSMo, and shall make recommendations therefor to the motor carrier
4 and railroad safety division and the department director. It shall also consider
5 any other appropriate matter relating to the operation of the motor carrier and
6 railroad safety division and the development and regulation of transportation

7 activities within this state. It shall consider the need for new or changed laws or
8 regulations relating to the development and regulation of transportation activities,
9 and shall from time to time make recommendations to the governor and the
10 general assembly in connection therewith to the end that the development of
11 transportation entities and facilities will enhance the economic development of
12 the state.]
13

Section B. Because of the need to ensure safe and efficient administration of the approval
2 and licensing of personnel, methods, and devices for the testing of blood alcohol content, the
3 repeal and reenactment of sections 306.114, 306.117, 577.020, 577.026, 577.037, and 577.208
4 of this act is deemed necessary for the immediate preservation of the public health, welfare,
5 peace and safety, and is hereby declared to be an emergency act within the meaning of the
6 constitution, and the repeal and reenactment of sections 306.114, 306.117, 577.020, 577.026,
7 577.037, and 577.208 of this act shall be in full force and effect upon its passage and approval,
8 or July 1, 2006, whichever later occurs.

✓

Bill

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